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MINISTRY OF LABOUR

NOTIFICATION

New Delhi, the 7th June 1955

S.R.O. 1262.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (XIV of 1947), the Central Government hereby publishes Part I of the following award of the Industrial Tribunal, Bombay, in the industrial dispute between the Bombay Port Trust, the Bombay Dock Labour Board and certain stevedore employers and contractors in the Port of Bombay, on the one hand, and their workmen, on the other.

BEFORE SHRI N. R. MEHER, I.C.S. (Retd.), INDUSTRIAL TRIBUNAL,
BOMBAY -

REFERENCE (IT-CG) No. 4 of 1954

ADJUDICATION

BETWEEN

The Bombay Port Trust, Bombay and 20 others

AND

Their Workmen.

In the matter of an industrial dispute re: Wage system, rate of wages, working hours, amenities, etc.

APPEARANCES: Shri H. M. Seervai for the Bombay Port Trust, Bombay.

Shri K. K. Mehta for the Bombay Dock Labour Board, Bombay.

Shri H. J. Marr of Messrs. Grawford Bayley, and Co., Solicitors, for the Bombay Stevedores' Association Ltd., representing Messrs. Kanji Jadhavji & Co., Ardeshir B. Cursetjee & Sons Ltd., Darabshaw B. Cursetjee's Sons, R. Sharp & Son Ltd., Dinshaw & Company, Hill, Son & Dinshaw Ltd., M. B. Eduljee Cassinath sons, Vinsons, New Dholera Shipping & Trading Co. Ltd., A. R. Naim & Sons, H. K. Joshi & Co., Dinshaw C. Cooper & Sons, Purshotamdas Madhavani & Co. Ltd., R. H. Tookaram Hariba & Sons, Eastern Bunkerers Ltd., United India Marine & Trading Co., and S. C. Cambata & Co. Ltd.

Shri B. N. Bhatt for Messrs. Dharsey Mulji, & Co. Bombay.

Shri F. E. Merchant for Messrs. Ebrahim Moosa Tadpatriwala, Bombay.

Shri Jasvantlal Matubhai of Messrs. Matubhai Jameitram & Madan, Attorneys for Messrs. Kanji Jadhavji & Co.

Shri C. L. Dudhia instructed by Shri H. N. Trivedi, President, Bombay Stevedores' & Dock Labourers' Union, for the Bombay Stevedores & Dock Labourers' Union, Bombay and for Shri Maruti Jairam & others.

Shri Sushil Kavlekar instructed by Dr. Shanti Patel, General Secretary, Bombay Port Trust Employees' Union for the Bombay Port Trust Employees' Union, Bombay.

Shri N. V. Phadke, instructed by Shri P. D'Mello, General Secretary, and Shri P. W. Khandekar, Secretary, Transport & Dock Workers' Union, for the Transport and Dock Workers' Union, Bombay.

AWARD

PART I

This is a reference by the Central Government under section 10(1) (c) of the Industrial Disputes Act for adjudication of an industrial dispute between the Bombay Port Trust, the Bombay Dock Labour Board and the Stevedore employers and contractors specified in Schedule I to the order, on the one hand, and their workmen in the Port of Bombay, on the other, regarding the following matters:

"1. Shore workers, stevadore workers, cranemen and tally clerks

1. Is the present wage system satisfactory from the point of view of

(a) ensuring a fair outturn of work, and

(b) a fair wage to the workers?

If not, what changes are necessary? In particular, should the present system be replaced by a piece-rate system?

What safeguards should there be to ensure:—

(a) a minimum wage to workers, and

(b) a minimum outturn?

What provisions should there be for offering an incentive for increased production?

2. Are the present rates of wages adequate? If not, what would be the fair rates under the wage system recommended—whether time-rated or piece-rated?

3. What should be the working hours of the various shifts under the system recommended, regard being had to the necessity to ensure quick turn-round of ships?

4. Should Tally Clerks employed by stevedores and the Port Trust be brought under the scheme of wages recommended?

5. If a piece-rate system is recommended what should be the method of calculating the volume of work handled?

6. What should be the basis for calculating provident fund contributions, gratuity, leave salary, etc. under the new system of wage payment recommended?

7. For workers not covered by the Minimum Wages Act, in what circumstances and under what limitations should overtime be paid and at what rates?

8. What should be the rate of payment for work on weekly rest days and closed holidays?

9. What essential amenities are lacking at the workplaces and should be provided?

II. Stevedore workers

10. Whether the present rates of payment of allowances (Batta) for stream work are adequate or should be revised?

11. Whether the present rate of dearness allowance for stevedore workers is adequate or should be revised?

12. Whether the present minimum guaranteed 12 days' wages per month for stevedore workers are reasonable or should be changed?

13. Whether the rate of attendance allowance for stevedore workers is reasonable or should be revised?

14. What bonus, if any, should be paid to stevedore workers for 1953-54?

III. Shore workers

15. Have proper steps been taken for the decasualisation of shore workers employed—

(a) by the Port Trust, and

(b) by contractors,

and if not, what further steps are necessary and possible?

16. What attendance allowance and guaranteed wage should be paid to decasualised shore workers?"

2. The stevedore employers have been represented in this proceeding by the Bombay Stevedores Association Ltd., Bombay. The Stevedore Association also represents Messrs. Kanji Jadhavji and Co., in so far as this firm does stevedoring work. This firm in its capacity as contractor as well as the other labour contractors specified in the reference viz. Messrs. Dharsey Mulji and Messrs. Ebrahim Moosa Tadpatriwala, have appeared separately. On behalf of the workmen the following Unions have filed statements of claim, viz. the Transport and Dock Workers' Union, the Bombay Port Trust Employee's Union, which represents mainly workmen of the Engineering Department of the Port Trust, and the Bombay Stevedores and Dock Labourers' Union. After the employers had filed their written statements in which *inter alia* they demanded that the present wage system be replaced by a piece-rate system, a demand to which the Unions were opposed, the Transport and Dock Workers' Union and the Bombay Port Trust Employees' Union asked for permission to file a rejoinder to the statements of the employers and they were permitted to file a rejoinder in which they have set out the grounds on which they are opposed to the piece-rate system. Also, in the course of the hearing, the Transport and Dock Workers' Union filed a supplementary statement Ex. U-1 raising certain legal objections to the maintainability of the reference as well as the maintainability of certain demands by the employers. Before dealing with these preliminary objections it will be convenient to set out certain facts and circumstances leading to the present reference. The workmen in the Docks handling cargo are (1) stevedore workers, (2) shore workers, and (3) workmen employed by contractors. Shore workers are those who handle cargo on the wharfs in transit sheds while it is in the operation of being loaded or unloaded. Stevedore labourers work on board the ships and load cargo on vessels or unload it therefrom. They are employed by the stevedore firms. The Port Trust is responsible for the safety of goods while they are being handled in the transit sheds and wharfs. Shore labour, except in the case of certain preferential berths where labour is engaged by contractors, is employed directly by the Port Trust. Before 1911 shore labourers were supplied to the Port Trust by a firm of contractors. In 1911 this system was abolished and replaced by the *toliwala* system. The change resulted in the *toliwalas* becoming in effect the employers of the shore labourers and these *toliwalas* were given work on the piece-rate by the Port Trust directly instead of through contractors. Although payments to the *toliwalas* were made on piece-rate the workers were paid by the *toliwalas* a fixed daily wage. The piece rates were so fixed that after paying the workmen at daily wage rates the *toliwalas* cleared a margin of profit. In 1932 the Government of India addressed the Port Trust regarding the recommendations made by the Royal Commission of Labour in India at pages 182-186 of their report about the registration and decasualisation of Dock labour and considered it desirable that steps should be taken to give effect to the proposals of the Commission, as far as circumstances would permit. The Government of India desired to lay stress on the fact that decasualisation by improving the quality of labour would ultimately benefit the employer no less than the dock workers. Owing to various circumstances which need not be gone into here as well as the outbreak of war the introduction of the system of decasualisation of shore workers was delayed until 26th November 1946 on which date a scheme was approved by the Trustees of the Board and sanctioned by the Government of India and put into operation from 21st April 1947. Under the scheme such workers as were on the books of the *toliwalas* six months previous to the date of introduction of the scheme were to be registered. The scheme provided for full control by the Port Trust over the payment of wages by *toliwalas* and contractors to labourers and the maintenance of accounts. It aimed at regulating the employment of registered labourers in a manner which permitted an equitable distribution of work among the registered workers. To

ensure the payment of correct and proper wages the attendance of the registered workers was maintained by the Port Trust and the toliwalas and contractors were made to pay wages in the presence of Port Trust Officers. In November 1947 there was a strike in the Docks and one of the demands of the shore workers was the abolition of the toliwala system. Under the terms of the settlement (vide Appendix B to the Port Trust's written statement in reply to the statement of claim filed by the Transport and Dock Workers' Union) the abolition of the toliwala system was agreed to by the Port Trust. Accordingly the Port Trust formulated a scheme of which the features were (1) the direct employment of labour by the Port Trust, (2) introduction of a fair wage on a piece-work basis. The scheme could not be finalised by the stipulated date, as the Dock Workers' Union resiled from the agreement in so far as it related to fixation of wages on a piece-rate basis. Shri S. C. Joshi, the then Chief Labour Commissioner (Central) advised the Port Trust not to insist on the piece-rate system but to adopt as a trial measure daily or monthly rates of pay subject to the stipulation that if the average outturn fell below the minimum, to be specified by the Port Trust in any two or three consecutive months piece-rates would automatically replace the time-rates. Shri Joshi also suggested that all section of labour concerned should guarantee that the fixed minimum of tonnage would be handled in a given interval of time and any extra work beyond this datum line would be suitably remunerated by a grant of bonus. The toliwala system was abolished from 20th April 1948. The Decasualisation Scheme which is now in force was introduced from that date. The two shifts system and the incentive bonus were put into effect later from 1st January 1949. The Scheme provided for a category of registered permanent workers called "A" category workers comprising 2300 men and a category of "B" workers comprising 500 men. The Scheme also provided for the employment of rank casuals who were to be paid at the same rates as category "B" for the actual period of their employment. In the Scheme it was stated:

"The daily wages provided in the Scheme are on the distinct understanding that the tonnage handled is upto the Datum line to be fixed. In the tonnage handled falls persistently below the datum line for a period of two to three months not due to any reasons beyond the control of the labourers, the Trustees will be entitled to introduce forthwith a system of piece-rate payment pure and simple."

The Scheme also provided for the introduction of an incentive bonus system.

3. On 28th September 1948 the Bombay Dock Workers' Union issued a notice to the Port Trust stating that unless certain demands were considered the workers would go on strike (Appendix D to the Port Trust's written statement No.1). On 13th November 1948 a settlement was arrived at between the Trustees of the Port Trust and the Bombay Dock Workers' Union regarding the scales of wages for daily and monthly paid workers as well as on certain other matters. By this settlement the Trustees also agreed to make certain modifications in the incentive bonus scheme, which was to be introduced from 1st January 1949.

4. On 1st July 1954 the Port Trust wrote to the Government of India (vide letter at Appendix E to the Port Trust's written statement) that the interests connected with the Port of Bombay had been viewing with no little concern the steadily deteriorating labour conditions in the Port, that the continuously declining output of labour and the consequent increase in handling charges and the detention caused to shipping had seriously affected the economy of shipping and trade of the Port. It was further stated that since 25th May 1954 when intensified go-slow tactics were employed, the decline in the output had been even more precipitate and had resulted in the diversion of ships or ships discharging or loading part cargoes only and it had become necessary for several ships at a time to wait in the stream for berths. It was pointed out that under the Decasualisation Scheme the Trustees were entitled to introduce forthwith the system of piece-rate payment if the tonnage handled fell consistently below the datum line for a period of two to three months not due to reasons beyond the control of the labourers, that the Trustees had come to the conclusion that the only way in which the existing situation could be rectified was the introduction of a piece-rate system for all sections of workers engaged in or connected with the handling of cargo, viz. Shore workers, cranemen and stevedore workers. It was further stated that the Chairman had discussions with the Union leaders who demanded that under the proposed piece-rate scheme, workers should be paid a minimum of Rs. 8 for the first shift, Rs. 11 for the second and Rs. 14 for the third, irrespective of the output. These demands were unreasonable and cut at the very root on which the piece-rate system was

based, namely, that payment should be commensurate with output. When the matter was further considered by the Dock Labour Board the Union leaders opposed the piece-rate system itself. Finally, by the letter it was requested that the Government should appoint a special Tribunal for evolving a piece-rate system for the abovementioned categories of labour. In the meanwhile the Transport and Dock Workers' Union also had made certain demands in respect of increase in wages for stevedore workers, etc. The Chief Labour Commissioner held conciliation proceedings to settle the dispute between the stevedores and their workmen and on 21st June 1954 wrote a letter to the Bombay Stevedores' Association Ltd. (Ex-C-1) stating that the Port Trust had expressed its opposition to a settlement confined to one section of labour as such a settlement would have repercussions on other sections of labour. The Chief Labour Commissioner asked for the comments of the Association on the various demands made by the Unions. To this the Stevedores' Association replied on June 23, 1954 suggesting the terms of reference to the Special Tribunal one of which was to evolve a sound piece-rate scheme for payment of wages to workers engaged in loading and unloading operations. On June 28, 1954 the Stevedores' Association Ltd., wrote another letter stating that it had been the contention of stevedoring firms, shipowners and the Port Trust authorities that no improvement in port conditions could possibly be achieved unless all categories of labour directly concerned with handling cargo both on board the ship and ashore were paid on a system of wages related to output. The Association expressed surprise that the Unions had taken the opportunity to raise disputes with regard to every conceivable category of workers in the Port. Such a course would prolong the *status quo* for years. The Association urged that the reference to the proposed Tribunal should be confined to three categories of workmen, *viz.* stevedore labour, crane drivers and shore handling labour of the Port Trust. On 23rd July 1954 the present reference was made, as stated above.

5. It will be convenient here to deal with certain general objections raised by the Transport and Dock Workers' Union to the maintainability of this reference (*vide* Ex. U-1). The Union has contended that the reference on the face of it is bad because the Central Government has not formed a clear opinion as to the existence or apprehension of an industrial dispute inasmuch as it has in the reference stated that a dispute "exists or is apprehended". In my opinion, the objection is a very technical one without any substance. There is a large number of disputes referred to in this reference and it was not necessary for the Central Government to specify separately what disputes had arisen and what were apprehended. The aim of the Industrial Disputes Act is to promote industrial peace by compulsory arbitration of disputes by a Tribunal, and Tribunals should not be astute to throw out references on technical grounds. As was held by the Supreme Court in *State of Madras vs. C. P. Sarathy and another* (1953, 1 L.L.J. p.174) Government must have power, in the interests of industrial peace and production, to set in motion the machinery of settlement without stopping to inquire what the specific points are. The next objection is that in Schedule I the employer is referred to as the Bombay Port Trust, that there is no such legal entity as the Bombay Port Trust, it being not a corporation sole, that the Trustees are the employers and that therefore the reference is bad. This objection is equally devoid of substance. The Port of Bombay is administered by the Trustees under the Bombay Port Trust Act, 1879. That Act *inter alia* confers certain powers on the Board of Trustees and certain powers on the Chairman of the Port Trust. It is quite clear from the reference that the workmen referred to in Schedule No. II include workmen employed under the Bombay Port Trust and the description of the Bombay Port Trust as the employer instead of the Trustees or the Board does not invalidate the reference.

6. The next point raised is that on 13th November 1948 a settlement (referred to above) was arrived at between the Trustees and the Bombay Dock Workers' Union in the course of conciliation proceedings and as it is still in force, the terms of the settlement are binding on the parties and the Central Government has no jurisdiction to refer to this Tribunal any dispute the subject matter of which has been covered by the said settlement. The subject matter of wages has been covered by the settlement and the wages are payable on a daily basis without reference to the output and that the reference so far as the piece-rate system is concerned, is, it is urged, invalid. A similar settlement was also arrived at on 13th November 1948 between the Bombay Stevedores' Association and the Bombay Dock Workers' Union with regard to daily wages, etc. and it is urged, therefore, that in view of that settlement, which was also in the course of conciliation proceedings, the reference with regard to the piece-rate system for stevedore employees is invalid. It has also been urged (in the rejoinder) that there was no dispute with regard to the introduction of a piece-rate system and so Government could not have apprehended any such dispute and that this

Tribunal has therefore no jurisdiction to adjudicate on the issue whether a piece-rate system should be introduced. From the facts set out in the preceding paragraphs it is quite clear that there was a dispute with regard to the demand of the Port Trust and stevedore employers for the introduction of a piece-rate system. When it was pointed out that the Transport and Dock Workers' Union itself had written a letter dated 24th June 1954 to the Chief Commissioner of Labour setting out the proposed terms of reference for a piece-rate scheme, the Union withdrew the objection as to jurisdiction raised on the ground that there was no dispute about the piece-rate system.

7. I shall now deal with the other objection referred to above. It was observed by the Labour Appellate Tribunal in the case of the Sugar Mills of Bihar *vs* Their workmen (1951, I. L.L.J. p.469 at p.472):

"Leaving out the case of apprehended dispute, which does not concern us in these appeals, it is apparent that the appropriate Government is competent to make a reference under section 10 of the Act, if before the reference—

- (1) the dispute in fact had arisen; (2) that the dispute is an industrial dispute; and (3) that the appropriate Government when making the reference had applied its mind to the subject-matter of the reference.

If any of those three conditions be absent the reference would be bad and the proceedings may be quashed or the tribunal to which the reference had been made would not be entitled to proceed on the reference. This would follow from what has been said by the Madras High Court in the case of *Kandan Textiles Ltd. vs. The Industrial Tribunal, Madras* and by the All India Industrial Tribunal (*Bank Disputes*), Bombay Extraordinary Gazette, Government of India, dated August 12, 1950 at page 180. Within these narrow limits alone the competency of the appropriate Government making the particular reference can, in our opinion, be questioned before a tribunal constituted under section 7."

As observed by the Supreme Court in the case cited in paragraph 5 (1953, I. L.L.J. p.174), in making a reference under section 10(1) Government is doing an administrative act. Their Lordships went on to observe:

"Moreover, it may not always be possible for Government, on the material placed before it, to particularise the dispute in its order of reference; for, situations might conceivably arise where public interest requires that a strike or lockout, either existing or imminent, should be ended or averted without delay, which, under the scheme of the Act, could be done only after the dispute giving rise to it has been referred to a board or a tribunal [*vide* Ss. 10(3) and 23]. In such cases Government must have the power, in order to maintain industrial peace and production, to set in motion the machinery of settlement with its sanctions and prohibitions without stopping to enquire what specific points the contending parties are quarrelling about, and it would seriously detract from the usefulness of the statutory machinery to construe S.10(1) as denying such power to Government. We find nothing in the language of that provision to compel such construction. Government must, of course, have sufficient knowledge of the nature of the dispute to be satisfied that it is an industrial dispute within the meaning of the Act, as, for instance, that it relates to retrenchment or reinstatement. But beyond this no obligation can be held to lie on Government to ascertain particulars of the disputes before making a reference under S. 10(1) or to specify them in the order."

It is therefore clear that the reference is valid and that no duty is cast upon Government before referring a matter for adjudication under section 10(1) to find out whether any particular demands are barred by the provisions of a previous award or settlement binding between the parties. It is true that when the Tribunal adjudicates on a dispute it cannot give a relief which would be inconsistent with the provisions of section 19 of the Industrial Disputes Act and it has therefore to be seen whether the demand for the introduction of a piece-rate system cannot be granted in view of the settlement relied on by the Union. At the outset it might be stated that if this argument is valid the demands of the Unions for increase in wages as well as several other matters which have been covered by the settlement cannot also be considered. Shri Seervai has tried to reply to the objection by replying on the fact that under the scheme introduced

by the Port Trust in 1947 (*vide* Appendix C at p. 67 of the Port Trust's written statement No. 1), there was a provision that "If tonnage handled falls persistently below the datum line for a period of two to three months, not due to any reasons beyond the control of the labourers, the Trustees will be entitled to introduce forthwith a system of piece-rate payment pure and simple." It has been urged that the Union's demands for the modification of this scheme made in the strike notice at Appendix E p.72 of the Port Trust's written statement included demands for increase in wages, modification of the bonus scheme, etc. and there was no demand for alteration of the particular clause referred to above the right of the Trustees to introduce a piece-rate scheme in certain circumstances, and therefore the Port Trust is entitled to introduce a piece-rate system if tonnage fell persistently below the datum line for two to three months, not due to any reasons beyond the control of labourers. In my opinion the Scheme must be read subject to the terms of the settlement dated 13th November 1948 (page 74 of the Port Trust's written statement) by which certain daily rates of wages were fixed at time-rate and the incentive bonus scheme was modified. The present demands of the Port Trust involve replacing of the incentive bonus scheme also by the piece-rate scheme. The demands of the Port Trust for the introduction of a piece-rate system as well as the Unions' demands for increases in wages of shore workers cannot be granted as long as that settlement is in force. The settlement has been terminated by a notice dated 24th February 1955 to the Unions issued by the Port Trust (Ex. C-73) during the pendency of this proceeding. In the notice it is further stated, "As adjudication proceedings are now pending relating to certain disputes between the Trustees of the Port of Bombay and their workmen and having regard to the provisions of section 33 of the Industrial Disputes, I am directed to intimate that till the final disposal of the reference relating to the said disputes the Trustees will not alter to the prejudice of the workmen concerned in the disputes, the conditions of service applicable to them immediately before the commencement of the adjudication proceedings." The settlement is therefore no bar to the Tribunal granting such demands of the parties as it thinks fit with effect from 24th April 1955, i.e. two months from the date of the notice. I do not agree with the submission of Shri Phadke that the termination of the settlement is of no effect as it has been done in the pendency of this proceeding. It may be noted that the Union for which Shri Phadke has appeared has itself issued similar notices, in the pendency of this proceeding, terminating a similar settlement with Messrs Kanji Jadhavji and Co. and Messrs Dharsey Mulji and Co. who are parties to this proceeding.

8. As regards the settlement between the Bombay stevedores' Association and the Dock Workers' Union, it is not a bar to the demands of the Stevedores' Association or the stevedore workers for the following reasons. This agreement was between the Dock Workers' Union and the Bombay Stevedores' Association, which was a different body from the Bombay Stevedores' Association Ltd., and only some of the stevedore employers in this reference were members of that Association. The settlement cannot be regarded as having legal validity now as it has been superseded by operation of law. Section 4 of the Dock Workers (Regulation of Employment) Act, 1948 empowers Government to make one or more schemes for a port or group of ports. In exercise of that power the Central Government has framed the Bombay Dock Workers (Regulation of Employment) Scheme, 1951. By clause 4 of the Scheme the Central Government may constitute a board to be called the Bombay Dock Labour Board. By clause 7 the Board is given powers to regulate the recruitment and entry into and the discharge from the Scheme of Dock workers and the allocation of registered dock workers to registered employers and ensure the whole and proper utilisation of dock labour. By clause 8 the Administrative Body of the Bombay Dock Labour Board is made responsible, *inter alia*, for the employment and control of registered dock workers and the allocation of registered dock workers who are available for work to registered employers, and payment as agent of the registered employer to each daily worker all earnings properly due to the worker from the employer. By clause 33 of the Scheme it is laid down that the rates of wages, allowances and overtime, hours of work, rest intervals, holidays and pay in respect thereof and other conditions of service of registered stevedore workers shall be such as may be prescribed by the Board for each category of workers. The Dock Labour board was constituted on 9th April 1951. In exercise of the powers conferred on it the Board has passed a Resolution adopting the wages and conditions of service then existing. Therefore from the date of implementation of the scheme earlier agreements between the Bombay Stevedores' Association and the Bombay Dock Workers' Union referred to above have no efficacy, and it would not have been possible for the Stevedores' Association to give any notice terminating the agreement of 1948. Therefore the settlement dated 13th November 1948 is no bar to the

granting of any demand in the present reference. No doubt the wages, etc. fixed by the Bombay Dock Labour Board would be subject to any valid orders that may be passed by this Tribunal. The Transport and Dock Workers' Union has further submitted that the demand of the stevedore employers for the substitution of the piece-rate system for the existing wage structure is inconsistent with the provisions of the Bombay Dock Workers (Regulation of Employment) Scheme, 1951. In my opinion it is not so because the scheme does not require that payment shall be made on the basis of time-rate.

9. The next question which falls to be considered is who are the workmen covered by the reference. On this question there is a dispute between the parties. The Transport and Dock Workers' Union, Bombay, has made certain demands with regard to the following workers employed by the Port Trust under the monthly rated system, *viz.* muccadams, watchmen, messengers, monthly paid mazdoors, coal workers and chipping and painting workers. The Port Trust has denied that the work of these employees is connected with the processes of loading and unloading and movement of cargo, and it has submitted that in any case they are not covered by this reference. The Union has also made certain demands with regard to special morpias. The Port Trust has submitted that they are not workmen within the definition of section 2(s) of the Industrial Disputes Act, as they merely supervise the work of the gang mazdoors and do no manual or clerical work. The Bombay Port Trust Employees' Union, which represents mainly workers of the Engineering Department of the Port Trust, has made demands with regard to a large number of workmen of the Engineering Department, a list of which is at Annexure A to its statement of claim. They include firemen of steam cranes, chain boys, plumbers, mochis, clutchmen, linesmen, masons, boosting station attendants, wiremen, etc. The Port Trust has submitted that the term "cranemen" in the reference refers only to crane drivers of the Hydraulic or Electrical establishment who operate the cranes which convey loads of cargo from ship to shore and from shore to ship and that it does not include the other categories of men shown in Annexure A to the Union's statement.

10. The Transport and Dock Workers' Union has made certain demands with regard to foremen, chargemen, apprentice foremen, sweeping gang tindels and sweeping gang workers, shivnars, palewallas, godown khalasis, godown workers and carpenters and gang workers employed on cotton cargo in barges. It has been submitted by the Stevedores' Association that foremen, chargemen and apprentice foremen are not workmen within the meaning of the Industrial Disputes Act and that the other workmen referred to above are not within the scope of this reference. It has submitted on behalf of the stevedore employers and the contractors that the expression "shore workers" in the reference includes only those categories of workmen who are concerned with the physical handling of the cargo loaded or unloaded from or into vessels from wharfside and transit sheds and that the expression does not include activities whatever carried out which are not directly concerned with the physical handling of cargo for loading and unloading purposes. The terms of reference should be given a reasonable interpretation based upon the context of the dispute and should not be extended to cover activities of individual employees which do not fall within the meaning of the word "stevedoring".

11. In the course of the hearing it was not disputed on behalf of the Unions that watchmen on the wharfs and coal workers and chipping and painting workers are not covered by the reference and so also carpenters, boiler makers, blacksmiths, plumbers, painters, mochis, hammermen, masons, assistant linesmen, drivers, assistant telephone fitters, engine drivers at dry dock engine house; but the Bombay Port Trust Employees' Union has pressed that other workmen of the engineering departments are included in this reference under the general term shore workers and cranemen and that in particular the following are included: drivers of mobile cranes, tractors and forklifts, platform truck drivers, nawganis, chainboys, clutchmen, greasers, firemen, electricians, assistant wiremen, cable jointers, linesmen, sarangs, boosting station attendants, foremen and drivers. I am of the opinion that the term "shore workers" in the context of the reference does not include every category of persons employed in the Docks. Now the order of reference made by Government is an administrative order. The terms used in the reference have not been defined, as in the case of a statute. The order of Government has, therefore, to be interpreted according to the intention, like any other document when the language used is ambiguous or defective or where words are used in a special sense. It is well settled that extrinsic evidence of every material fact which will enable the Court to ascertain the nature of the subject matter of a document must of necessity be received. In the present case we have the following extrinsic

evidence, (a) letters of the Port Trust, the Stevedores' Association and the different Unions on the subjects proposed to be referred for adjudication, (b) the reports of the Chief Labour Commissioner (Central) to the Central Government on the basis of which the reference has been made. As the reports at (b) have been produced with a request that they may be treated as confidential under section 21 of the Industrial Disputes Act, I shall refer to them only in a general manner.

12. The points referred to above have arisen out of the statements of claim of the Transport and Dock Workers' Union and the Bombay Port Trust Employees' Union. The Bombay Stevedores and Dock Labourers' Union, which is also a registered trade union and has a representative on the Bombay Dock Labour Board, has in making its demands used the term "shore workers" and "stevedore workers" and "cranemen" in the sense in which it has been interpreted and understood by the Port Trust and the Stevedores' Association, though it appears to have understood the word tally clerks to include also certain clerks about whom there is a separate reference (IT-CG No. 5 of 1954). The Union has also used the word "cranemen" as meaning persons who operate the cranes which convey loads of cargo from ship to shore and *vice versa* i.e. the crane drivers, and has made demands in respect of them only and not all categories of workers employed in the Engineering Department.

13. In the order of reference it is stated that an industrial dispute concerning a major port exists or is apprehended between the employers specified in the order of reference and their workmen regarding the matters specified in Schedule II. In Schedule the first heading is "Shore workers, stevedore workers, cranemen and tally clerks." The first two matters specified in Schedule II are as follows:—

1. "Is the present wage system satisfactory from the point of view of

(a) ensuring a fair outturn of work, and

(b) a fair wage to the workers?

If not, what changes are necessary? In particular, should the present system be replaced by a piece-rate system? What safeguard should there be to ensure:—

(a) a minimum wage to worker, and

(b) a minimum outturn?

What provisions should there be for offering an incentive for increased production."

2. "Are the present rates of wages adequate? If not, what would be the fair rates under the wage system recommended—whether time-rated or piece-rated?"

The third item is as regard working hours. The fourth item relates to tally clerks only. The fifth is regarding method of calculating work if a piece-rate system is recommended. The sixth item is the basis of calculating provident fund, leave salary, etc. under the new system of wage payment recommended. The further items are some special matters regarding Stevedore workers and shore workers employed by contractors.

14. It is clear from the context of the reference that the question whether the time-rate system should be replaced by a piece-work system or some system which will offer an incentive to production is one of the major issues in the reference. But in referring this matter for adjudication Government also took into consideration the demands of the Unions regarding wages for these categories of workmen, and therefore the second item referred to is, "Are the present rates of wages adequate? If not what would be the fair rates under the system of wages recommended. Whether time-rated or piece-rated?" From the reports of the Chief Labour Commissioner to the Central Government it appears that when the matter was in the stage of conciliation negotiations on behalf of the workmen were carried on by Shri D'Mello, the General Secretary of the Transport and Dock Workers' Union, and from paragraph 13 of the Chief Labour Commissioner's report dated 24th June 1954 it is seen that Shri D'Mello when he referred to the overall settlement of all outstanding questions was referring only to workers "almost directly concerned in the work of loading and unloading ships". The Port Trust has produced a letter dated 1st July

1954 at Appendix E to its written statement, addressed to the Secretary to the Government of India, Ministry of Labour, in which it is stated:

"There are, broadly speaking, three sections of Labourers required in the handling operations involved in the import or export of goods. They are—

- (1) STEVEDORE LABOURERS who are *not* employed by the Port Trust but by Stevedores, from workers registered with the Bombay Dock Labour Board under the Bombay Dock Workers (Regulation of Employment) Scheme, 1951, and who work in the hatches of ships and load slings and trays with cargo for discharge on shore or who unload export cargo from slings and trays and stow it in the hatches or on decks;
- (2) CRANEMEN who are employed by the Port Trust and who operate the cranes which convey loads of cargo from ship to shore or *vice versa*; and
- (3) SHORE LABOURERS who are employed by the Port Trust and who attend to all handling operations on shore, including the slinging or unslinging of crane loads, and their sorting, stacking and storage in transit sheds."

The letter goes on to say that on account of go-slow tactics by the workmen there has been a decline in the output and that the "Port Trust has come to the conclusion that the only way in which the existing situation can be rectified is by the introduction of a system of payment on a piece-rate basis for all sections of workers engaged in or connected with the handling of cargo, namely, Shore Workers Cranemen and Stevedore Workers." Then there is a letter (Ex C-1) dated 21st June 1954 from the Chief Labour Commissioner (Central), to the Secretary, Bombay Stevedores' Association forwarding a list of points in dispute submitted by the Transport and Dock Workers' Union and asking for its comments. In list No. 1 under the heading "shore workers disputes" there are specified the following workers: "Special Morpia, Morpia, Gang Worker, Cart and Wagon unloaders and Mathadi workers and Bharoots". In list No. II it is stated that foremen and chargemen should be registered under the Bombay Dock Workers (Regulation of Employment) Scheme, 1951. Then there is a list of Stevedore workers under the heading (a) monthly workers and (b) daily paid pool workers. Under sub-head "other Stevedore workers" specified, foremen, chargemen, tally clerks, sweeping gang tindels, sweeping gang workers, carpenters, godown khalasis, godown tindels and godown workers. In list No. III grievances with regard to pay scales of shed superintendents (grades 1 and 2), gate inspectors, gate cashiers, assistant shed superintendents, export cargo receivers, labour supervisors, manifest clerks (first and second grade), outdoor general clerks (tally clerks), sorters, markers, carpenters, peons (messengers), monthly paid muccadams, monthly paid mazdoors and watchmen, are stated. Reference (IT-CG) No. 5 of 1954 which was made on the same day as this reference covers all categories of workers set out in list II but leaving out peons (messengers), monthly paid muccadams, monthly paid mazdoors and watchmen. List No. IV represents grievances of watchmen only. List No. V relates to disputes with regard to Scindia Steam Navigation Co. Ltd. List No. VI refers to disputes with regard to the chipping and painting section. List No. VII relates to certain workmen of Messrs Kanji Jadhavi & Co. List No. VIII refers to demands of stampmen and calipermen. There is also a subsequent letter dated 24th June 1954 written by the General Secretary of the Transport and Dock Workers' Union, Bombay to the Chief Labour Commissioner (Central) specifying the terms of reference for framing a piece-rate scheme. It is stated in the letter that the request was made by the Union in order to enable the Tribunal to evolve a workable and just scheme.

15. To the above letter of the Chief Labour Commissioner the Stevedores' Association replied on June 28, 1954 that the dispute which had been under discussion related primarily to wages of stevedore pool workers, fall in output of stevedore labour (both pool and monthly workers) and indiscipline among them, but the Unions had taken this opportunity to raise multitudes of irrelevant issues covering every category of workers in the Port. It would have the effect of prolonging the *status quo* for years. The Association strongly urged that the reference to the Tribunal should be confined to three categories of workmen only, *viz.* stevedore labour, crane drivers and all shore labour of the Bombay Port Trust handling cargo, and should be confined to the matters involved in the dispute. At about the same time the Port Trust wrote to the Chief Labour Commissioner as follows:

"The Trustees are of the view that the problems arising from the recent Stevedore labour dispute cannot be settled on a sectional basis without due regard to the repercussions which any such settlement may have on other categories of Port labour and that a Special Tribunal should be appointed with a view to securing an overall settlement. I am, however, to emphasise that the overall settlement which the Trustees have in view has reference only to the categories of Labour on whose co-ordinated efforts depends the efficient loading and unloading of cargo from vessels, viz., Stevedore labour, Port Trust Cranemen and Port Trust shore labour. The overall settlement which the Trustees are anxious to secure seems to have been very widely interpreted by the Transport & Dock Workers' Union.....As stated above, the overall settlement which the Trustees have in view relates only to the Stevedore Workers and the cranemen and shore labour employed by the Port Trust. If any other categories are included in the proposed reference to the Tribunal, the main issue will be completely clouded. The Trustees, therefore, cannot agree to any matters being referred to the proposed Tribunal except the question of evolving a sound piece-rate scheme for payment of wages to Stevedore workers, Port Trust shore labour and Cranemen. The Trustees feel that what is required is a settlement in which a definite relationship between wages and output would be established."

16. There is also a letter from the Transport and Dock Workers' Union to the Chief Labour Commissioner dated 24th June 1954 specifying the terms of reference for framing a piece-rate scheme. It was stated in the letter that the request was made by the Union in order to enable the Tribunal to evolve a workable and just scheme. Then there is the letter dated 8th July 1954 of the Chief Labour Commissioner to the Central Government recommending certain disputes to be referred to adjudication. On 22nd July 1954 the present reference was made. On the same day another reference (No. 5 of 1954) was made the terms of which are as follows:

- "1. Revision of scales of pay of Shed Superintendents (Grades I & II), Gate Inspectors, Gate Cashiers, Assistant Shed Superintendents, Export Cargo Receivers, Labour Supervisors, Manifest Clerks, Clerks (First Grade and Second Grade), Outdoor General Clerks (Tally Clerks), Sorters (First Grade and Second Grade), Markers and Carpenters."

There are also other matters in that reference regarding leave terms, overtime work, etc. for these workmen. Reference No. 5 of 1954 is evidently based on the demands in list II submitted by the Transport and Dock Workers' Union. The present reference relates to shore workers, stevedore workers, cranemen and tally clerks and one of the principal issues is the question of evolving a system of wage which would serve as an incentive to production. The categories of workers embraced in the above description are those on whose co-ordinated efforts depends the efficient loading and unloading of cargo into and from vessels. The words "outturn" and "incentive for increased production" in the Central Government's reference evidently relate to cargo loaded from shore to ship or unloaded from ship to shore. It will be convenient here to deal with the duties of the various categories of workmen (*vide* Exs. C-13, C-14, C-76, C-16 filed by the employers and Exs. U-4 and U-125 filed by the Unions). With regard to certain categories of workmen under the Port Trust about whom there is a dispute whether they are engaged or not in loading and unloading processes, Shri D'Mello, the acting Assistant Mechanical Superintendent, has filed an affidavit at Ex. C-76 and some workmen have filed affidavits in reply. I accept the affidavit of Shri D'Mello with regard to the duties of fitters, mazdoors and nawganis of the Hydraulic Department, muccadams, greasers and nawganis of the Hydraulic Pumping Stations and Mazdoors, Fitters and nawganis in the oil pipe section and khalasis and sarangs of the Northern Division, and do not accept the statements in the counter affidavits in which it is tried to show that these men are engaged in loading and unloading of cargo. Muccadams of the engineering department do duties of a supervisory nature. They allocate the mazdoors to various jobs both in and outside the Mobile Crane garage. They do not sling any loads but if any of the mobile cranes are laid up for repairs in the garage they attend to the slinging of such parts like engines, cylinders, etc. which require careful handling. As regards muccadams of the Hydraulic department their duties are of a supervisory nature. They detail the mazdoors and nawganis to the various cranes. On occasions when cranes are under repair they sling the heavy parts of the crane to ensure that they are correctly assembled in position but this work forms a very negligible proportion

of their duties which are of a supervisory nature. Fitters, mazdoors and nawganis in the Hydraulic establishments are in no way connected with the work of loading and unloading cargo. They attend to defects in the crane, burst in the hydraulic pipe lines, cleaning and oiling various parts of cranes. They are also sent to the workshop to see the progress of the repairs of parts sent to workshops. Greasers and nawganis in the Hydraulic pumping stations assist the station attendant in looking after the cleaning of the station, pump strainers, tanks, keeping clerical panels clean, etc. Mazdoors, nawganis and fitters in the Oil pipe line section patrol the pipelines from Alexandra Dock to Pir Pau which is outside the limits of the Dock. Fitters attend to the repairs of packings and joints in the pipelines and operation of valves. The statement at page 6 of Ex. U-4 that they load and unload oil cargo is misleading as oil in bulk is not handled by any employees of the Port Trust, but is pumped by the ships, the pressure in the pipelines being boosted by the Port Trust boosting station pumps which are manned by attendants and drivers in the oil boosting stations. Khalasis and sarangs of the Northern Division put wooden fenders alongside the pier and fix the ropes which moor the oil tankers to the pier at Pir Pau. They are not concerned with the loading and unloading oil cargo from the tankers, the oil being discharged and received by such tankers through the oil pipe lines worked by the ship's pumps, the pressure in the pipe lines being boosted by the pumps in the Port Trust boosting station. I hold that all these persons are not covered by the reference.

17. Turning to categories about whose duties there is no dispute, watchmen have not to do with loading and unloading of ships and though demands have been made in regard to them, during the hearing it was conceded that they are not covered by the reference. Messengers or peons are not engaged in loading and unloading activities and they are evidently not covered by the reference, (apart from the absurdity of talking about "increased production" by them or of considering piece-rate system for such category of workers). Driver mechanics repair all vehicles whenever necessity arises. Hoistmen and liftmen operate lifts in the sheds. They do not load or unload cargo into or from the lift. Clutchmen operate and attend to the clutches for various motions of the heavy lift cranes such as hoisting, steaming or travelling. Firemen attend to the firing of boilers for raising steam pressure. Electricians, wiremen, assistant wiremen and cable jointers belong to the maintenance staff of the electric department made up of two divisions, northern and southern. The northern division is situated outside the docks at Mazagaon. The other is in Alexandra Dock near Red Gate. These men are engaged in the maintenance and repair of the electric system of the Port Trust, the electric sub-stations, underground cables, wiring of buildings, etc. Boosting station attendants and drivers are responsible for the operation and running of pumps in the three boosting stations which assist the pumping of petroleum products from the ship to shore and on the shore from one installation to another. The foremen of boosting stations carry out supervisory duties, ensuring that men at boosting stations work satisfactorily. Linesmen attend to the fixing and removal of bulbs on the electric poles both in and outside docks for roadway lighting. None of these categories of workmen are engaged in the process of loading and unloading or stacking of goods in shed. Any question of altering the system of their wages so as to ensure greater production is meaningless. These categories are not covered by the reference. It may also be noted that the Chief Labour Commissioner had not recommended their inclusion in the Reference. If the term shore workers included all categories of dock workers, there was also no need to specify separately crane men and tally clerks, and there was also no need for the Central Government to make a separate reference (which it has made on the same day as this reference) with regard to shed superintendents, gate inspectors, assistant shed superintendents, cargo receivers, labour supervisors, sorters, markers and carpenters. The term shore workers in the context of the reference, as I have understood it was used and understood in the same sense by the Transport and Dock Workers' Union in List I of its demands, referred to above. That is the only list pertaining to demands for "shore workers". It may also be noted that in the list II of the demands of the Transport and Dock workers' Union the demands are in respect of monthly and daily paid stevedore workers, viz. tindels, senior and junior workers, khalasis, winchmen and hatch-foremen. In that list there is also given a category of "other stevedore workers" which includes foremen, chargemen, tally clerk, sweeping gang tindel, sweeping gang worker, carpenter, godown khalasi, godown tindel and godown worker. Of them only one category, viz. tally clerks, is specified in the reference. The crane men referred to in the context of the reference are the drivers of cranes which lift loads of cargo from ship to shore or vice versa; on their co-operation with the stevedore workers and shore workers the outturn depends. The crane men is said to be the linchpin in the loading and unloading operations. It is therefore perfectly understandable why crane men are included in the reference. In

correspondence from 1948 onwards which has been produced crane-men is the term used by the Port Trust and the Unions synonymously with the driver of these cranes [*vide* C-23, C-25 and letter dated 18th July 1949 from the Chief Labour Commissioner (Central) to the Chairman, Bombay Port Trust, filed with the Port Trust's written statement]. The Bombay Stevedores and Dock Labourers' Union has also in its statement of claim used the word "crane-men" synonymously with crane drivers and has made demands in respect of crane drivers only. The Chief Labour Commissioner has also in his report to the Central Government recommended the inclusion of crane-men in the reference, as distinguished from workers of the engineering department. Persons like greasers, firemen, mazdoors, nawganis and other categories of workmen of the Engineering Department who in the course of their duties may have something to do with cranes are not comprised in the reference. They are not directly or indirectly engaged in loading and unloading. There is no question of any "production" by them nor could there be any question of having a change in the system of their wages of any question of payment of piece work. But drivers of electric cars (electric platform trucks), fork lifts, mobile cranes, and tractors though not engaged in loading ships and unloading ships are engaged in the process of moving and stacking unloaded cargo and, in my opinion, come within the category of shore workers comprised in the reference. It might be mentioned here that at first the Port Trust contended that none of these four categories were comprised in the reference; during the arguments, however, it was conceded that drivers of fork lifts and tractors are included in the reference but it was urged that a piece rate would be inappropriate for them.

18. Turning to disputed categories of workers alleged to be Stevedore workers comprised in the reference, carpenters are required to patch or remedy defects where crates are damaged. The work may be done at any time after discharge of the cargo and before delivery to the consignee. In the case of export cargo this service is effected by the shippers or their agents. Carpenters are evidently not engaged in loading, unloading or stacking operations. Sweeping gang workers are engaged only for sweeping the holds of ships. Drivers drive lorries from godowns which are in some cases 4 or 5 miles from the dock areas. In the course of the hearing it was conceded that they are not covered by the reference. Godown khalasis are employed by stevedores. They do not work in the docks. They prepare wire, rope and net slings, sling of steel chains, etc. Godown workers are engaged by a few stevedores. They load gear into lorries or carts at the godown or docks for conveyance to the docks or godowns. After the gear has been deposited in the docks in the morning and until the gear requires to be removed in the evening, they are engaged in general duties in the stevedores' godowns. These categories of workers employed by Stevedores or contractors are not engaged in the processes of loading and unloading or stacking of goods and are not covered by the reference. But palewalas, palewalis and shivnars are, in my opinion, covered by the reference. Palewalas and palewalis are employed by Stevedores and contractors to collect remnants of grain which fall when bulk grain cargo is unloaded and these are delivered to the consignee. Shivnars sew bags which, while unloading, get torn. Their work is simultaneous with unloading operations. Palewalas, palewalis and shivnars are thus engaged in work which is part of the operations of unloading cargo.

19. The Transport and Dock Workers' Union has made demands in respect of certain workmen employed by Messrs. Kanji Jadhavji and Co. who are both Stevedores and contractors. Messrs. Kanji Jadhavji and Co. have contended that of these workers cement workers, sugar workers and food-grain workers are not comprised in the reference. The cement workers are concerned in the clearance of the cargo on behalf of the consignee at a much later stage than the actual unloading of cargo from ships. There are no less than 600 licensed concerns engaged in such clearance work in the Port of Bombay and it is unlikely that the Government would have purported to make a reference in respect of only one of such concerns if it was intended to cover this category. With regard to sugar workers it is stated that the Company was up to the end of September 1954 acting as clearing agents for the Government of India in relation to the import of sugar. Since that date the Company's contract with the Government of India has not been renewed and no sugar workers are now employed by this Company nor is there any immediate likelihood of the Company again employing such workers. As regards the foodgrain workers it is stated that in the case of foodgrains the bulk cargo is discharged into bins by stevedore labour. After this Government calls for tenders for clearance of the cargo. The Company has been appointed as a clearing/transport contractor for the Government of India for the first time for a period of one year from 20th April 1954 to 28th April 1955. Whether the contract will be renewed depends upon competitive tenders. The Company has

submitted that its appointment and the consequent employment of foodgrain workers is not at all connected with the physical handling of cargo in unloading operations but relates to its function as a clearing/transport contractor and the labour employed for this purpose cannot be described as shore labour. The Unions have not filed any statement disputing the duties of these categories of workers as set out by Messrs. Kanji Jadhavji and Co. in Ex. C-14. I hold that cement workers, sugar workers and foodgrain workers are not comprised in this reference. With regard to the demands of the Transport and Dock Workers' Union for cotton cargo gang workers employed by Messrs. R. Sharp and Son Ltd. It has been stated by the Stevedores' Association that Messrs. R. Sharp and Son Ltd. have not in the past carried out and have no prospect in future of carrying out any work in connection with the unloading of American cargo, and so no award on this demand is possible or necessary. During the hearing it was conceded that this demand made against Messrs. R. Sharp and Son Ltd. was made through a mistake but it was stated that cotton cargo workers are employed by certain other Stevedoring companies. No evidence has been led before me as to who are employing "cotton cargo" workers, what is the nature of their duties, and no submissions were advanced during the hearing as to the wages of these workers, nor is there any specific demand in respect of the wages of these workers. In the circumstances I have not considered it necessary to pass any orders about these categories.

20. Now I come to the categories of workmen about whom there is a dispute whether they are workmen within the meaning of section 2(s) of the Industrial Disputes Act. Special Mhorpia is a person who supervises four gangs. It has been stated by the Port Trust that the duties of the special Mhorpia are supervisory. In a statement filed by the Bombay Dock Workers' Union (Ex. C-2) before the Industrial Tribunal, Shri S. H. Naik in Reference (IT-CG) No. 1 of 1952 the Union stated as follows:

"The Union says that the duties and responsibilities of Special Mhorpias have been for a number of years and are today of the following nature:—

- (1) Distribution of gangs hookwise.
- (2) Supervision of loading unloading work, the work of Helping and Making Room gangs, Baroots, Cart and Wagon unloaders, Holsters, and Pilers, etc. etc.
- (3) Assignment of gear to the proper workmen according to the requirements of ship's cargo and distribution of gear to various gangs.
- (4) Supervision over heavy unloading and Mobile Cranes.

A Special Mhorpia is in a position and is required to co-ordinate the work of the gangs, as he is by virtue of his long experience the most suitable person who knows the capacity of each gang employed. As work differs from hatch to hatch, a Special Mhorpia alone can decide who would be the suitable persons for a particular type of cargo, such as despatch of motor cars, trucks, glassware, sanitaryware, iron cargo, and so forth. This type of work requires specialised handling."

It is evident therefore that the work of special Mhorpias is supervisory and they are not workmen within the meaning of section 2(s) of the Industrial Disputes Act. It might be mentioned that the Port Trust has been replacing special Mhorpias by supervisors and under the award given by Shri Naik in the abovementioned reference vacancies of special Mhorpias are not to be filled up. So in course of time this category will cease to exist.

21. With regard to foremen, their duties are specified in Appendix A to the written statement filed by the Association. The correctness of this statement is not disputed. There can be no question that these foremen have only supervisory duties to perform and no manual work. Chargemen have to be in-charge when the foreman is away and have to do the foreman's duties. Their duties are also supervisory. In the case of *Simpson Co. Ltd. vs. Martin* (1951 II, L.L.J. p.43) the Labour Appellate Tribunal held that a foreman whose duties and responsibilities do not involve any manual work save and except as is necessary in connection with his supervisory functions is not a workman within the meaning of the Industrial Disputes Act. In the case of *Bombay Steam Navigation Co. Ltd. vs. their workmen* (1953 I, L.L.J., p. 357) it was held by the Labour Appellate Tribunal that as mistries do mainly supervisory work they fall outside the scope of the definition of "workman" within the meaning of the Industrial Disputes Act, 1947. I hold that foremen and chargemen employed by Stevedores are not workmen within the meaning of section 2(s) of the Industrial Disputes Act. Besides this reference does not include foremen and chargemen.

22. The demands under issues Nos. 1, 2, 4, 5, and 6 referred to by the Central Government can be conveniently dealt with together. The issues are:

"1. Shore workers, stevedore workers, cranemen and tally clerks

1. Is the present wage system satisfactory from the point of view of

(a) ensuring a fair outturn of work, and

(b) a fair wage to the workers?

If not, what changes are necessary? In particular, should the present system be replaced by a piece-rate system? What safeguards should there be to ensure:—

(a) a minimum wage to workers, and

(b) a minimum outturn?

What provisions should there be for offering an incentive for invreased production?

2. Are the present rates of wages adequate? If not, what would be the fair rates under the wage system recommended—whether time-rated or piece-rated?

3. Should Tally Clerks employed by stevedores and the Port Trust be brought under the scheme of wages recommended?

4. If a piece-rate system is recommended what should be the method of calculating the volume of work handled?

5. What should be the basis for calculating provident fund contributions, gratuity, leave salary, etc. under the new system of wage payment recommended?"

As stated above, the Port Trust, the Dock Labour Board have represented that the present wage system is not at all satisfactory from the point of view of ensuring a fair outturn of work and it should be replaced by a piece-rate system so as to ensure a fair wage to workers as well as a minimum outturn. On the other hand, on behalf of the workmen it has been contended that the present wage system does not ensure a fair wage to the workers and all round increases are asked for and the demand of the employers for the introduction of piece-rate system is strongly opposed. The Port Trust, the Dock Labour Board and the Stevedores' Association have represented that while the present wage system is more than satisfactory in ensuring a fair wage to the labour, it is most unsatisfactory from the point of view of output, that the gradual and persistent deterioration in the output of labour in the docks shows that on a time-rate system of payment dock labour can never be trusted to do an honest day's work for a fair day's wage. The present wages of labour are so high that there is a disinclination to put forth extra effort to earn bonus under the existing incentive bonus scheme. The remedy for the malaise would therefore lie not in any further increase in the earnings unrelated to output which would serve merely to increase the cost of production, but by linking the earnings to output under a piece-rate system. The workmen have persistently resorted to the pernicious evil of "go-slow" with a view to secure daily employment for a larger number of employees. The Transport and Dock Workers' Union and the Bombay Port Trust Employees' Union have from time to time resorted to go-slow as the chief weapon in their armoury for extorting the acceptance of various unreasonable demands. The stipulation that the outturn should not fall below the prescribed minimum subject to which alone the Port Trust agreed to accept the recommendations of Shri S. C. Joshi, the Chief Labour Commissioner, to pay labour a fixed daily wage, was never observed by the workmen. Conditions have since deteriorated to such an extent that the only remedy would be to pay labour on a piece-rate basis.

23. I shall first deal with the evidence relied on by the Port Trust, the Dock Labour Board and the Stevedores' Association to establish that there has been a progressive fall in output of tonnage loaded and unloaded, and that it is due to go-slow by workmen. Despite the fact that datum lines were reduced by 6-1/4 per cent. as a concession to workmen, the following figures of cargo handled by

Port Trust shoreworkers in the first and second shifts, in respect of which incentive bonus is payable, show a progressive fall in output:

"Year	Tonnage required as per datum line as reduced by 6½%	Tonnage handled	Difference	Percentage below datum
1950-51	2,410,588	2,169,540	241,048	10%
1951-52	2,356,141	1,957,021	399,120	17%
1952-53	2,985,038	2,304,335	680,703	23%
1953-54	3,449,961	2,441,197	1,008,764	30%

The following figures of the amounts of incentive bonus earned by Port Trust Shore Labourers for the years 1950/51 to 1953/54 also evidence the progressive slackening of effort and efficiency on the part of the workmen:—

	Rs.
1950-51	2,10,469
1951-52	88,612
1952-53	39,373
1953-54	24,950

24. In the Port Trust's written statement it is stated (at page 15),

"Working 7 gangs in the first shift, 5 in the second shift and 1 in the third shift, the s.s. "City of Barcelona" loaded, on Thursday, the 22nd April 1954, 260, 128 and 18 tons, respectively, of bagged groundnuts cargo. The average rate of loading in the three shifts was 37, 26 and 18 tons, per gang, respectively, against the datum requirements of 90 tons in each of the first and second shifts. From the 25th May 1954, when intensified 'go-slow' tactics were employed, the decline in the output had been even more precipitate. There have been innumerable instances where the output has been as low as 5, 6, 7 and 8 tons per hook per shift. This has resulted in the diversion of ships, or in ships discharging or loading part cargoes only. It had become necessary for several ships at a time to wait in the stream for berths."

Exs. C-69 and C-69A show the steep decline in the output on food ships. They show that from 30th October 1951 to 20th February 1952 the output in the first and second shifts regularly exceeded the datum line. As against this the figures for a period of four months ending July 1953 show that the output was invariably below the datum line. Ex. C-9 (page 22) shows that the figures of output of bulk grain for April and May 1946 and April and May 1947 are 119, 115, 115, 125 tons per hook respectively for 8½ hours (two shifts of 9 and 8 hours divided by 2). Reducing them in terms of two shifts of 8 and 6 hours which prevail now we get 98, 94, 94 and 103 tons. The datum for bulk grain is 86 tons so that in all these 4 months the datum was exceeded. Ex. 69-1A shows that the output for the same months in 1953 was 72 tons for April 1953 and 63 tons for May 1953. The Stevedores' Association has relied on the following figures showing fall in output per gang.

Period	Tonnage handled by Stevedore employees	Number of man shifts	Production per 100 man shifts	Incentive bonus earned
	Tons			Rs. As. P.
1950-51				2,21,109 13 0
1951-52	45,37,335	10,43,158	434	80,028 11 0
1952-53	38,88,374	10,11,952	384	80,257 6 0
1953-54	36,63,576	12,01,677	304	30,176 0 0

Ex. 64 which is a graph showing the tonnage handled per month in relation to wages paid to registered stevedore workers from April 1951 to December 1954 shows a progressive fall. Ex. N relied on by the Stevedores' Association shows production figures in a period of intensified go-slow. It gives the discharge of cargo from 23rd May 1954 to 1st June 1954 in respect of a very large number of ships, and shows that the average was far below the datum line, in some cases even much less than 1/5th. On 27th May 1954 the Stevedores' Association sent a telegram to the Ministry of Labour, the Ministry of Transport and the Chief Labour Commissioner, Government of India which was as follows:

"Stevedore labour started intensified go-slow tactics from night shift of 25th May stop General cargo ships discharging 10/15 tons cargo per hook against datum line of 45 tons stop Rice ships discharging 35 tons per hook against datum line of 90 tons per hook stop Situation deteriorating fastly stop Request immediate intervention stop Repeated message to Transport Labour—Chllabcom."

The following telegram from the Shipping interests in Bombay to the Ministry of Transport on 28th May 1954 shows the alarm caused by the intensified go-slow by workers:

"Reference telegram from Chairman Bombay Port Trust regarding serious situation Bombay Docks stop. We wish make following amplification stop At meeting between shipowners and agents stevedores and Docks Manager unanimously resolved request Chairman Port Trust report situation by telephone to you repeating telegraphically Ministries Labour Commerce Delhi Home Minister Bombay and requesting you proceed Bombay forthwith also that Chairman Port Trust be granted immediate disciplinary powers similar to Chairman Calcutta Port Commissioners to handle Bombay dock and stevedore labour stop Situation worsened yesterday labour averaging five to seven tons per hook per shift with Labour Union apparently directing gangs rigorously to restrict tonnage to be handled per shift resulting import export trade virtually at a standstill stop Congestion due ships waiting berths worsening stop. Now eight ships involved nine further vessels excluding coasters due by 31st May stop Vessels sailed this week or now in port anticipate leaving behind over five thousand tons export general cargo mainly destined foreign countries stop We consider your presence essential stop Repeated Ministries Labour Commerce and Home Minister Bombay Signed Indian National Steamship Owners Association comma Indian Coastal Conference comma Japan/Persiangulf/Japan Conference comma India/Pakistan USA Conference comma Burma/India/Ceylon Conference comma Stevedores Association comma Karmahom Conference."

The Port Trust has exhibited a letter from Messrs. Josef Blum Ltd. dated 28th May 1954 and a telegram from the Shipping Lines to the Ministry of Transport, dated 9th June 1954. The facts set out in these are revealing. The letter reads as follows:

"There is always some trouble or the other in the Bombay Docks with the result that the normal shipping activities in Bombay are continuously interfered with.

We had a consignment lying in the docks for shipment to New Zealand for nearly past 7 days but as the labourers were observing a "Go slow" strike the consignment was shut out yesterday and the steamer left without ours as well as several other consignments. The steamers to New Zealand are far and few between and we will have to wait God knows how long for the next steamer, apart from the tremendous loss which we are called on to face on account of this shutting out of the cargo.

Due to these developments in the Bombay docks the foreign shipping companies have cancelled their steamers or diverted them to other ports. This means our other shipments are also shut out. God knows how much further losses the shippers will be put to due to this eleventh hour cancellation of steamers.

We are addressing this letter to you not as a matter of grievance as such emergencies arise all over the world ports. We however wish to bring this serious happening to your notice. Due to such strikes in the docks not only Indian shippers suffer but there is dislocation in the international communication and the reputation of Indian trade also suffers.

May we for this reason suggest that the labour situation in the docks of major ports in this country should be under the constant observation of Government and immediately an indication is given that there is likely to be a strike or stoppage of work, alternative arrangements to handle the dock work must be kept ready. In this connection we draw your attention to the prompt action of American Government when they are faced with a similar trouble in New York Port recently. It is reported that instead of allowing the foreign ships to go back empty or diverted the Government had immediately put the military (Sappers & Miners Division) to handle the loading and unloading. Such measures promptly taken by Government are also useful for teaching the labour a lesson in that they are made aware the stoppage of essential services is not tolerated by Government and Government is always ready with their alternative arrangements in case they play truant."

The telegram dated 9th June 1954 is as follows:—

"Continuation our telegram 28th May Port situation still serious and deteriorating further stop Vessels discharging only 20 to 25 tons general per hook shift which very considerably below datum even after taking rain past three days into account stop Vessels sailed last week left behind about 7600 tons exports and overcarried 700 tons import stop One passenger vessel sailed yesterday overcarrying 1008 tons imports and refusing 1400 tons exports stop Presently six ships awaiting berths 20 expected next three days stop While understand Ayyar Subramaniam visiting Bombay eighteenth still consider presence Ministers essential immediate future stop Repeated Chief Labour Commissioner stop Signed Indian National Steamship Owners Association comma Indian Coastal Conference comma Japan/Persian Gulf/Japan Conference comma India/Pakistan/USA Conference comma Burma/India/Ceylon Conference comma Stevedores Association comma Karmahom Conference."

Ex.C-15 is a statement showing the number of vessels and the percentage of vessels on which the output was below or exceeded the datum line from 1949 to 1954. These figures are as follows:

	1949				1950				1951			
	Below Datum		Above Datum		Below Datum		Above Datum		Below Datum		Above Datum	
	No.	%age	No.	%age	No.	%age	No.	%age	No.	%age	No.	%age
1. *Vessels handled by Port Trust Labour	1290	275	17.6	1231	568	31.6	1302	401	23.5			
2. Bulk Grain Vessels	66	43	39.4	28	64	69.6	116	78	40.2			
3. Vessels at Preferential Berths (Small Coasting Vessels)	119	84	41.4	109	162	59.8	75	177	70.2			
4. Small Coasting vessels handled by Port Trust Labour	176	33	16	143	97	41.5	140	78	35.8			

* Inclusive of vessels itemised at 4

	1952				1953				1954			
1. *Vessels handled by Port Trust Labour	1733	187	9	7	2015	96	4	07	1616	35	2	1
2. Bulk Grain Vessels	106	41	27	9	84	7	7	7	29	..	..	..
3. Vessels at Preferential Berths (Small Coasting Vessels)	92	160	63	5	189	72	27	5	203	15	6	9
4. Small Coasting Vessels handled by Port Trust Labour	232	33	12	5	261	21	7	4	214	2	9	9

*Inclusive of vessels itemised at 4.

It is seen from the above figures that production showed an upward trend upto 1950 and from then there has been a progressive decrease. This exhibit is also relied on by the Port Trust to show that datum lines were such that a large percentage of ships could exceed them. The fall since 1951 is less marked in respect of vessels on preferential berths where shore gangs are engaged by the contractors on a piece work basis.

25. Ex.C-23 relates to go slow by crane drivers in February 1948. On 19th February 1948 the Chairman, Bombay Port Trust wrote to the Chief Labour Commissioner as follows:

"The crane-drivers, since the resumption of duty from 9th instant, have been very slow at work and their daily output is only about half of what it was during the pre-strike period. I understand they have resorted to these go-slow tactics deliberately and for some ulterior motive.

To illustrate this I may point out that the average work done by the cranemen, per day, per hook, on a foodship from 15th to 23rd December 1947 (pre-strike period) was 148 tons as against the average of only 64 tons per hook, per day, turned out by them on another foodship from 10th to 16th February 1948 (post strike period);

The figures in that exhibit of the tonnage handled by cranemen prior to and subsequent to the resumption after the strike show clearly that there was an intensified go-slow. On 28th February 1948, the Secretary, Ministry of Transport, sent the following telegram to the Chairman, Bombay Port Trust:

"Regional Food Commissioner, Bombay complains that cranemen are deliberately working cranes slowly so that discharges from steamer are half of what they were before strike. This causes financial loss to Government by way of demurrage and impedes flow of foodgrains. Please investigate and try to stop the mischief. Invoke assistance of Regional Labour Commissioner, if necessary. Kindly report action taken and result achieved to this Ministry."

26. In April 1949 following on the Chairman asking the Stevedore companies to discontinue the practice of paying the so-called speed money (which as I shall point out later in this award is nothing but illegal gratification) to cranemen, the cranemen began to go-slow. On 21st April 1949 the Chairman Port Trust wrote to the Ministry of Transport as follows (vide Ex.C-12):

"Please refer to your Secraphone Message No. 581 dated 19th April 1949 regarding 'go-slow' policy of the cranemen.

The rate of discharge has dropped since the cranemen have deliberately slowed down in consequence of the stoppage by the stevedores of "speed money". This form of illicit payment to cranemen was stopped when the Incentive Bonus Scheme coupled with two-shift working was introduced on 1st January 1949. The cranemen, however, from the very beginning have been apathetic about the working of the bonus scheme and have been angling for a revival of the payment of the so called "speed money" by doing as little work as possible. The stevedores in consequence again allowed themselves to be thus blackmailed and revived the illegal payment.

This, however, far from satisfying them only led to other demands and the cranemen began to insist on a radical change in the system of

their postings; they desired that each crane-man should be changed from crane to crane every day. This demand if conceded, would make an end of the newly introduced Incentive Bonus Scheme accepted by their Union leader, Mr. Asoka Mehta, and embodied in the Conciliation Proceedings held by Mr. Jaleshwar Prasad in November last year. As bonus is calculated ship-wise, it is necessary that the same set of crane-men work a particular ship, so that it would be possible to say whether tonnage worked day by day exceeded or fell short of the datum line. Since the crane-men were earning extra money from the stevedores by way of blackmail which amounts to about Rs. 3 per working day, they had no interest whatever in seeing that any tonnage over and above the datum line was worked. As the speed money was paid only for 'working' cranes, the crane drivers were naturally anxious to have a daily change so that any one of them could share, by turns in the loot.

It will thus be seen that the root cause of the whole trouble was the levy of blackmail by the crane-men and as long as the stevedores submitted to such exactions the Incentive Bonus Scheme could not possibly work, as intended, and the unskilled shore and hatch labour would get nothing while crane-men alone could irregularly pocket from Rs. 45 to Rs. 50 per month. Complaints were received from Mr. Dinkar Desai, Adviser of the Dock Workers' Union, on behalf of the shore and stevedore labour. I therefore had to ask the stevedores to stop payment of "speed money" and this was done from the 18th instant. I may further state that both Mr. Asoka Mehta and Mr. Dinkar Desai have assured me that they entirely disapprove of such irregular payments.

In another letter to the Ministry of Transport (Ex. C-12) dated 23rd April 1944 the Chairman pointed out that the output of food ships which used to be 1100 to 1400 tons per ship had been reduced to just over 500 tons per day.

27. Sometime in 1949 there was a demand on the part of crane drivers that they should be paid Rs. 23 per month as incentive bonus irrespective of output. This unreasonable request was turned down by the Chief Labour Commissioner who wrote to the Chairman, Bombay Port Trust on 18th July 1949 as follows:

"The demand is that workers should get at least Rs. 23/- p.m. by way of incentive bonus. In my opinion this is a strange demand whether the workers work or not, whether the workers adopt the policy of "go-slow" or efficient work, to suggest that they should get a bonus of Rs. 23/- p.m. would be unreasonable, because in that case bonus would not be incentive bonus at all but it would be a part of their monthly salary. I have found that the work of the crane-men has very much deteriorated since 1946 and 1947. Whatever may be the conditions the workers have adopted a policy of 'go-slow'."

28. Towards the end of 1951 there was another go slow by crane drivers. This is shown by Ex.C-24. In a letter dated 10th January 1952 to the Bombay Port Trust Employees' Union it is stated:

"It is noted with regret that, for the past few weeks the crane drivers, in spite of the fact that they are being paid the usual speed money, have started working deliberately slow. This has seriously hampered the rate of discharge and this slow discharge has more seriously been observed in the case of food grain ships. Under the circumstances, the Association is seriously considering the question of discontinuing the payment of the speed money. Before this is done, we would like to discuss this matter with you and shall thank you to kindly let me know as to what date and time would be convenient to you to discuss this matter."

The Union asked for a spot inquiry to which the Association replied by its letter dated 29th January 1952:

"The fact that the crane drivers are working slow is no secret and the same can be verified from the records available for tonnage handled during the past few days. If, on-the-spot enquiry was to be made, they would naturally be turning out better tonnage during the days when the enquiry is proceeding. My feeling is that this will not solve the problem."

29. Ex. C-121 contains an extract from the speech by Shri A. Ramaswamy Mudaliar, Chairman of the Indian Steamship Co. Ltd., at the Annual General

Meeting of the Company on 30th December 1954 in the course of which he stated:

"The most distressing aspect of the labour situation at some Indian ports is the 'go-slow' tactics and adopted by various classes of dock labour. In spite of the fact that attempts have been made by Government representatives to prescribe this normal work that may be turned out by a gang of workers and the promises held out by labour leaders that these norms will be observed, the situation has deteriorated, indiscipline being rampant and authorities who can supervise or control such labour being incapable, owing to various reasons, to deal with the situation. Where one gang was in the recent past responsible for loading a certain quantity of cargo, more than two gangs and not unoften even three gangs, are required to load the same amount of cargo.....Unfortunately conditions have steadily deteriorated. The Port Commissioners labour, the stevedores labour the winchmen alternately adopt 'go-slow' tactics and ships are held up for weeks on end in loading and unloading their cargo. This situation should not be allowed to last any longer and the public must clearly understand what the continuance of such a situation would mean to the economy of the country.

The Report of your Directors shows the economic consequences to your Company as a result of the labour situation, but there are wider consequences than those affecting your Company which result from labour's indiscipline and unreasonable attitude. The trade of the country will seriously be affected, and indeed has already been affected to some extent, by such an attitude on the part of labour. Shippers are unable to meet their contracts and deliver the goods to their importers in time. In an extremely competitive world where countries with the same resources which India has got wish to establish markets for their products, it can easily be realised that the economic consequences of delayed shipments and of shipments made at higher freight rates will be extremely serious to the normal trade of the country. It wants no imagination to forecast that once there is a diversion of trade from one country to another it will be an uphill task to recapture the original normal markets. Government and the public, therefore, have as serious a situation to face as the Shipping companies and I trust that the gravity of the problem having been now realised effective steps will be taken to regulate the conduct of dock labour. The 'go-slow' movement is nothing else than a direct attempt at sabotaging the efforts that the country is making towards economic progress. The Prime Minister has aptly observed "Aram Haram Hai". If his attention is drawn to this situation at the ports in this country he will be shocked at the extent to which this evil practice of idleness is prevalent. When one looks at the amount of unemployment that exists amongst the educated classes and even the skilled workers and compares it with the position generally speaking of dock labour, one will realise how totally unjustified and extremely anti-social the attitude of much of this labour is."

While this proceeding has been going on there has been an announcement on April 12, 1955 of a resolution of the U.S.A. Atlantic and Gulf Ports, India Pakistan and Burma Outward Freight Conference, proposing an increase in freight on account of labour trouble and delays in the ports of Bombay, Calcutta and Madras. It is as follows:

"For many months, the vessels of the Member Lines serving Bombay, Calcutta and Madras have experienced very serious delays at those ports as a result of deplorable labour and port conditions. Such delays to the carriers vessel represent a heavy financial burden, which the Lines cannot continue to bear indefinitely. The Member Lines have been very patient in respect to these conditions, but are now reluctantly obliged to impose a surcharge of 35 per cent on freight and charges on all cargoes to Bombay, Calcutta and Madras, effective with cargoes delivered to ocean carriers on dock or alongside on lighter at respective loading ports on and after June 1, 1955. The necessity for the imposition of this surcharge is highly regretted by the Member Lines, but is essential to ensure the elimination of the unreasonable delays now being suffered by the carriers at these ports.

In the event that immediate remedial measures are taken by the various Indian Governmental and Port Authorities prior to June 1st as will

result in such an improvement in labour and port conditions as will in the opinion of the carriers permit the suspension or elimination of the surcharge, every consideration will be given by the Member Lines to taking such action."

That intensified go-slow has been resorted to on any pretext is also shown by the fact that even during the course of this adjudication proceeding a large number of Stevedore gangs engaged on the ships worked by Messrs. Eastern Bunkerers Ltd. and Messrs. Kanji Jadhavji and Co. adopted intensive go-slow tactics, not on account of any dispute between them and their employers, but to show their sympathy with the Dock clerks of the Scindia Steam Navigation Co. Ltd., who had some dispute with that Company. The go-slow was resorted to immediately after the Company had received a 'phone message from one of the Secretaries of the Transport and Dock Workers' Union, that if the dispute was not settled the workers would have to resort to go-slow. I have in those cases given permission to suspend the workers for 3 days under section 33 of the Industrial Disputes Act [Orders on Applications (IT-C-G) Nos. 56 to 62 of 1955. A copy of one of these orders is at Appendix A to this award]. Ex. 72 produced in this case shows that discharge of cement bags per hook from S. S. Rose Bank fell steeply to 11 tons in the second half of the first shift on 9th December 1954, to 25 tons in the night shift, and to 9 tons in the day shift of 10th December 1954. When I visited the ship on 6th January 1955 (and watched the unloading operations for an hour and a half) the output of cement bags from the same ship rose to 113 tons per hook (*vide* Ex. C-72).

30. It might here be pointed out that go-slow is not considered to be a legitimate trade union weapon. In the case of Firestone Tyre and Rubber Co. of India Ltd. and Bhoja Shetty and another (1953 I.L.L.J. p. 599) the Labour Appellate Tribunal observed:

"It was contended on behalf of labour that go-slow tactics were as much a recognised weapon as a strike for the purpose of compelling the employers to yield to their demands. This is a view which we cannot accept. Slowdown is an insidious method of undermining the stability of a concern, and tribunals certainly will not countenance it. In our opinion it is not a legitimate weapon in the armoury of labour. Furthermore while the right to strike under certain conditions has been recognised by necessary implication under the Industrial Relations Act, and is controlled by its provisions, go-slow has been regarded by labour legislation as a misconduct."

31. Official reports from time to time refer to go-slow by workmen. On 23rd November 1951, the Deputy Manager, Hamallage, issued a circular (Ex. C-80) that complaints had been received from Stevedores and shipping companies that the slings going out of the ship's holds were not released quickly by shore labour, that the empty slings were not hooked on expeditiously resulting in a slowing down of the quick turn-round of the ships. The Assistant Managers and Labour supervisors were directed to pay special attention to this matter so as to avoid delays. Ex. C-56 shows that on 26th April 1952 the Deputy Manager, Hamallage, made a report as follows:

".....two important factors tended to reduce the labour output in 1949-50: the go-slow policy of the hydraulic crane men for a period of about three months (from 18th April 1949 to 18th July 1949) and the congestion in the Docks which was acute almost throughout the period.

The absence of both these factors in 1950-51 should therefore have resulted in a substantial increase in the labour output and the fact that there has been no such increase must be ascribed to that extent to the go-slow tactics of the labourers."

Ex. C-56 contains another report from the same officer complaining that on 9th October 1953 the shore workers on two ships adopted go-slow tactics. There is also reference to go-slow by stevedore workers in June 1950 in the departmental report and the administration report for 1950-51 (*Vide* Ex. C-55). Stevedore workers went in for go-slow after the employers had refused a demand for a bonus equivalent to two months' wages. A settlement was eventually arrived at and the go-slow which lasted from 6th June to 24th June 1950 was called off (Appendix H-1 to the written statement of the Stevedores' Association). By the agreement the Bombay Dock Workers' Union (which is now amalgamated with the Transport and Dock Workers' Union) undertook to withdraw the go-slow by stevedore workers from 26th June 1950, thus in effect admitting that go-slow had been resorted to at the instance of the

Union. The Association has also produced copies of letters written to the Transport and Dock Workers' Union on 18th May 1953, 24th July 1953 and 29th July 1953 complaining of go-slow on the part of workmen and giving facts and figures in support. It is stated in paragraph 27 of the written statement that to none of these letters was there any reply from the Union.

33. Shri Shaikh, the Deputy Manager of the Hamallage department of the Bombay Port Trust has, in his evidence, stated that workmen invariably start work 15 or 20 minutes late, and stop work anywhere from 30 to 40 minutes from the lunchbreak; after the lunch interval they again start 15 minutes later than the appointed time and generally ends by half an hour before the closing time. He has stated, "To the best of my knowledge this practice has developed in the post decasualisation period i.e. 1st January 1949 onwards and at times the position has been considerably worse with the stevedore labour reporting late for work, the hydraulic crane men reporting late for work and shore labourers on certain occasions, although reporting to the place of work, not commencing exactly at the starting time." He has further stated that there has been underloading of slings much below their load capacity. He added that it is a feature of shore labourers' work that they do not return the spare sling by unhooking a load immediately it is landed on the quay, thus holding up the process of loading or unloading operations. Every hook is supplied with at least three slings per hook, the idea being that while a sling load of cargo is being landed on shore the stevedores in the hold have another sling which they start piling up with cargo preparatory to its being hooked on the crane or derrick chain as soon as a spare sling is returned by the shore labourers. If there is no spare sling they have to wait till one comes along thus causing avoidable detention to the progress of work. In the toliwala period the men were invariably ready with a truck, or in the case of cargo required to be carted inside the transit shed with men anticipating the arrival of a sling and in readiness to handle it. Since the shore labour was taken over by the Port Trust the labourers generally wait until a sling touches the floor before thinking of making any arrangements to receive the load. There is no reason to disbelieve the evidence of Shri Shaikh on these points. It might be mentioned that I visited the Docks in company with the representatives of the parties in this proceeding, viz. on 6th January 1955 and 10th February 1955. On the first occasion it was noted that work in the Dock had completely stopped over 20 minutes before the closing time. On the second occasion when I arrived at Alexandra Dock at 12-45 P.M. i.e. a quarter of an hour before the authorized recess for lunch, work in the Dock appeared to have completely stopped and there were no signs of any activity on the wharfs.

34. The evidence of Shri Shaikh derives further support from the admissions of a witness Tukaram Gurav who has been examined by the Transport and Dock Workers' Union. He has stated that work goes on till 11-30 or 11-45 A.M. (break for lunch is from 12 to 1 P.M.) and that work ends at 4-30 or 4-45 P.M. (it should end at 5 O'clock which is the closing time). The witness was not questioned on the point as to when the work in the docks starts in the morning because he stated that he goes to the docks for work at 9 A.M. and so he could not be expected to say when the work ordinarily starts. The fact that the workers come late in the morning and leave off work before the scheduled time for lunch and closing time by itself accounts in part for the progressive fall in the output since the decasualisation scheme came into force.

35. In 1950 the Special Officer Reorganisation (Shri T. S. Sankara Aiyar) made the following observations on the wage system introduced in the Docks in 1948 and the incentive bonus system introduced in 1949:

"The introduction of the 'datum line' of output as the basis for determining bonus payment only, but without attempting to correlate the guaranteed minimum wage to the datum line appears to me to be a most objectionable feature of the scheme likely to render it uneconomic. The scheme underwent many vicissitudes and had to be finalised in a rather agitated and tense atmosphere followed by labour unrest, strike and conciliation proceedings (T.R. No. 785 of 1948). The terms of settlement made a substantial modification to the original scheme by making the incentive bonus payable for every additional tonnage of output instead of on a slab basis as originally envisaged. This innovation made the scheme still more expensive....."

Now the most uneconomic feature of the scheme, as far as I have been able to understand, is that the worker gets the full monthly normal wage whether his performance touches the datum line or

not whereas the equitable arrangements would have been to regulate payment in excess of the minimum guaranteed retention allowance, on the basis of actual output.

In refreshing contrast with this, the Calcutta Port Commissioners' scheme seems to have been based on correct and equitable principles. Their main category of workers appears to be "piece-rate labour with a guaranteed minimum" which is based on an attendance fee of annas 12 per day for a month of 30 days plus Rs. 25 dearness allowance, rounded off to Rs. 50 per month for a worker who attends but does not get work. Anything beyond this depends on the daily rate which seems to be Rs. 0-8-0 *per ton of cargo* and not the nominal basic wage irrespective of output or of datum line. It may be that the Bombay scheme was to a large extent influenced by awkward labour conditions prevailing at the time. But the settlement was definitely understood to be experimental in the first instance for a period of six months and when it was finalised at the end of the six months' period, I wonder whether conditions did not permit a dispassionate review and rectification of the position."

36. As against the strong evidence referred to above, showing that dock workers have been going slow, the Unions have relied on the decision in Appeal (Bom.) No. 183 of 1953 in which the Labour Appellate Tribunal observed that in the absence of any direct cogent evidence it could not accept the argument advanced on behalf of the Bombay Port Trust that the tonnage handled by shore labour had gone down due to go-slow process on the part of shore labour. But as was pointed out in the decision of the Labour Appellate Tribunal, the point was not raised in the written statement of the Bombay Port Trust. The question of go-slow was not directly in issue in that proceeding. The issue in connection with which these observations were made was about the demand of the workmen for increasing the number of A category workers. The Appellate Tribunal observed that there was no mention of go-slow in departmental reports. These departmental reports referring to go-slow have been produced in this proceeding. The observations of the Labour Appellate Tribunal on the limited material before it on a matter which was not raised in the written statement by the Port Trust, in a proceeding to which the Stevedore employers were not parties cannot affect the conclusions which can be reasonably drawn from the evidence which has been led in this proceeding, referred to above, and which was not before the Labour Appellate Tribunal and which has a direct bearing on the issue referred to me for adjudication whether the existing system is satisfactory from the point of view of securing a fair outturn of work.

37. The Unions have urged that the fall in production by workmen, assuming it is proved, has been due to factors other than go-slow by workers and in particular they have stressed the point that the datum lines do not represent proper standards of production and therefore comparisons of tonnage produced during the last 3 years with the tonnage of output in the datum line period should not be made. But as can be seen from the evidence referred to above the proof that workmen have been going slow is independent of the question of the correctness of the datum lines. However the points urged by the Union need to be considered in detail, as they are also relevant on the important question whether the datum lines represent fair production standards and whether piece-rates can properly be processed on the basis of these datum lines.

38. The circumstances in which datum line calculations were made are as follows. The Bombay Dock Workers' Union which had agreed to the introduction of a fair wage on a piece-work basis resiled from the agreement. In the dispute the Chief Labour Commissioner (Central) had to intervene. Ex. C-8 shows that he advised the Port Trust not to insist on piece work rates and that labourers should be paid at daily rates on the distinct understanding that if the average outturn fell below a prescribed minimum (to be specified by the Port Trust) in any two of three consecutive months, piece-work rates would automatically replace daily rates, provided such fall was not due to reasons beyond the control of labourers. He recommended that this provision should be included in the scheme and its unqualified acceptance by the representatives of the Union should be made a condition precedent. This condition was however not incorporated in the agreement with the Union reached on 13th November 1948, but the agreement sets out that for every additional ton of output in excess of the "datum line tonnage" bonus would be paid.

39. The datum lines were worked out under the supervision of the Docks Manager. The datum lines were based on figures of output of vessels which

had discharged or received cargo and the man-days involved in handling the same in the Docks during the two-year period 1st October 1954 to 30th September 1947. The working of 1901 import vessels, and 1199 export vessels aggregating 3,638,038 and 1,610,579 tons respectively, was examined. This period was selected because October 1947 to January 1948 was a period of strike, though a separate analysis was also prepared for that period (*vide* Ex. U-4). The Docks Manager in his report stated, "The period under review witnessed the switchover from war-time to peace-time traffic, with peace-time traffic initially preponderating and then completely replacing war traffic. Any period prior to this would cover exclusive war-time traffic and would not provide a fair index of normal activity." The Dock Manager considered that the averages for the datum period provided "a fairly consistent index of present day labour output under strenuous conditions."

40. The Transport and Dock Workers' Union and the Bombay Port Trust Employees' Union have stated in their rejoinder that datum line tonnages have been incorrectly computed because in making the calculations making room gangs and piling gangs were not taken into account. Allowances were not made for the actual number of hours worked by *toliwala* labour. The base period (1945-47) represented a period of intensive work due to war and post-war conditions. Traffic was organized on the convoy system. The method of computing the tonnage was by reading the ship's draft. These draft readings were taken by the ship's officers merely as a rough and ready guide for their own purposes. There was no special reason for the ship's officers to take accurate readings. The tonnage was communicated by the Stevedores' Association only once a day to the shed superintendent, who accepted it without question and without verification. The datum line was computed by the Port Trust without taking into account tonnage loaded and unloaded in the stream and in the Bunders. The correctness of the datum line rests on the erroneous assumption that the pattern of trade in the post-war years is the same as in the base period. This assumption is not correct because during the base period roughly 1/3rd of the tonnage consisted of Government cargo. Another assumption implicit in the datum line is that the direction of trade had remained constant, while in fact ships bearing different flags have been calling at Bombay in increased number. In the post-war years the number of persons engaged in import and export trade has risen rapidly. During the base period, stacking according to marks of the consignees was relatively an easy and quick operation, particularly as the chief consignee, the Government, monopolised one-third of the total foreign trade. The increase in number of traders has led to delays in stacking according to marks in respect of imports, and in searching out packages in respect of export goods. The productivity of the registered shore and stevedore workers is higher than those of casual workers and it is the engaging of purely casual workers that has contributed to the decline in output. The change in the tally system and the reduction in the number of tally clerks from two to one per shed have led to the lowering of the output. Again during the base period Government stores and military supplies were removed from the transit sheds with great despatch. After the partition and because of the tendency of merchants to keep their goods in the Port Trust warehouses for long periods of time, and because of stricter import and export control with increased Customs examination with inadequate staff there has been congestion in the transit sheds lowering the output. Under the *toliwala* system there was greater specialisation of labour and therefore greater output. The replacement of special *morpias* by labour supervisors whose supervision has not been as efficient as special *morpias* has contributed to the decline in output. Equipment in the docks has been inadequate and obsolete. The cranes have become more inefficient and frequently have become out of order. During the *toliwala* period gear such as hand carts, trucks, etc. were properly maintained: now they are not.

41. The Transport and Dock Workers' Union and the Bombay Port Trust Employees' Union have, to substantiate the above contentions, relied on some documentary evidence and the evidence of Shri Pinto. The Port Trust having no opportunity to reply to the rejoinder have led documentary evidence as well as the evidence of Shri Shaikh, the Deputy Manager, Hamallage, to rebut the contentions of the Unions.

42. The way in which the datum line was worked out has been fully explained by Shri Shaikh, the Deputy Docks Manager, in his evidence. Payments had to be made to *toliwalas* on the piece-rate, during this period. Daily shed returns showed tonnage of cargo shiftwise. On the strength of these, *toliwala's* wage account sheets were prepared and payments were authorized to them after the auditors had passed them as correct. Wage account sheets for the entire datum period are maintained and were made available for inspection by the Unions, during this proceeding. The sheets showed the tonnage handled in each shift.

In the log book was registered the tonnage landed or loaded in each shift. The ship's officer gave the draft reading to the agent's representative who communicated it to the shed superintendent. The figures in the log book were not put down by draft readings exclusively, but there were other data, viz. freight manifests, stowage plans and numbers of bags in the case of bag cargo. An independent check was that before the arrival of the vessel the Port Trust received advices indicating the quantity of cargo to be landed, and in the case of bag cargo delivery figures provided conclusive proof of the correctness of the tonnage. In the case of export cargo not in bulk the Customs shipping bills showed the weight of parcels and cargo covered by the shipping bills. In the case of certain goods yardage was shown. There was a Chamber of Commerce Circular used as a ready reckoner of weight (Ex. C-31). Where the weight had been declared, check weighments were carried out by the shed staff. As regards export bulk cargo it had to be passed over weighbridges and the weight as ascertained over the weighbridges was recorded. The tonnage handled was totalled up on the completion of the vessel and a certificate forwarded by the Shift Superintendent to the Hamallage Office. The tonnage imported was paid for at a specified rate per ton and a letter was despatched to the vessel's agents asking for confirmation of the exact tonnage discharged by the ship, and on receipt of confirmation any excess payment or short payment was adjusted, as shown at the foot of the wage account sheets.

43. Shri Shaikh has stated that third shift tonnage was not taken into account in the datum calculations. This is also clear from the documents produced. The toliwala was paid an idle gang allowance for labour rendered idle on a vessel for continuous periods of not less than two hours' duration on account of stoppage of vessel's work for certain specified causes. This 'idle gang allowance' was paid at the rate of half the daily wage of the gang for continuous breaks of about 2 to 4 hours. In the computation of the datum line idle periods of less than 2 hours were ignored, idle periods in excess of 2 hours and less than 4 hours counted as 2 hours and idle periods in consequence of a vessel completing cargo in any hook in the course of a working shift were ignored. It has been urged therefore that considerable benefit by way of a reduction in the datum line has been given to labour inasmuch as the output for any particular vessel has been shown as the result of working more hours than the actual time worked. The figures of the labour utilised and working time in handling cargo were obtained by computing the number of gangs utilised exclusively for shore hook work and the number of hours these hook gangs were actually at work including overtime work, if any, and excluding, 'idle' time worked out on the basis stated above. The tonnages of cargo handled in respect of all vessels and the man-days involved in handling the same were grouped together for vessels of the same line. The total output of all vessels of the same line and total effective man days for the entire group respectively were calculated. The man-days were divided by 14 (the strength of a gang including the toliwala) which gave the number of effective gangs and the total output divided by this figure gave the average output per gang per shift. As during the relevant period this work was done in two shifts of 9 hours and 8 hours respectively the average output per shift computed as above was treated as the output of 8½ hours. The datum figures have been proportionately reduced to conform to the working hours of the present shifts, viz. 8 hours and 6 hours.

44. Shri Shaikh has admitted that more shipping lines are operating now than during the datum period, but he has stated that this does not affect output. Only the flags are different. Characteristic of the cargo depends on the country from which it comes. It is not correct that because there are more consignees now as against Government being the principal consignee, the output is less, for though Government was supposed to be the main importing agency in war time, the goods were consigned to various parties over the length and breadth of India; and Government cargo was not just labelled Government cargo but had a complex labyrinth of markings on every package rendering sorting out of consignments more difficult than the normal commercial shipping lines. Except for guns and warlike instruments practically all other items of Government cargo were items normally used for civilian consumption such as we get today. As regards the contention of the Union that during the datum period traffic was on the convoy system, Shri Shaikh has stated that there was no convoy system during the period. With the termination of the war in the East on 10th August 1945 the convoy system was discontinued a few days later. During the datum line period no import or export cargo was marked by the Port Trust. It is not correct that there was specialization of labour in the toliwala period except in the sense that there were certain mathadi workers (workers carrying cargo on the head) as against workers handling cargo on hand carts. The fact that various toliwalas interchanged gangs shows that there was no such specialization as is alleged,

except that only a particular set of persons handled commodities like crushed bones, skins and hides because others refused to do so on religious grounds. (That is the position now also). During the toliwala period there were not even a dozen special morpias, as the toliwalas supervised the work of the gangs. Labour supervisors have been replacing special morpias and are better supervisors than special morpias. In the datum period, spares and certain essential items like tallow which are necessary for soaking the crane packing were not available, but from the end of 1948 these items have become freely available. Breakdowns of cranes are not as frequent as in the datum period. So far as supply of gear is concerned, there is an elaborate set up of staff who are all the time on the move making adjustments and deploying mechanical handling devices as and when required.

45. With regard to the allegation that the shortage of making room gangs and helping gangs has affected production adversely, reliance is placed by the Unions on figures of certain amounts received as handling charges (Ex. U-35), but these handling charges do not represent the amounts received for helping gangs. Shri Shaikh has stated that making room gangs are not connected with the discharge or loading of a vessel. Making room gangs are supplied for departmental convenience, first to segregate cargoes of old vessels into a compact bunch, to obviate against mixture with cargo from a fresh vessel; secondly, to hoist down uncleared cargo from the upper floors to the ground floor preparatory to loading them into railway wagons for despatch to uncleared warehouses; thirdly, to collect scattered packages while a ship is at the berth and is likely to receive export cargo in order to prevent import packages being erroneously shipped. The work of baroots is not simultaneous with loading of cargo, because if a number of cases of one mark have to be stacked together the baroots wait until a reasonable quantity of cases or packages accumulate before beginning to stack. In the datum period baroots were a mobile squad moving from shed to shed and piling was intermittent. Piling men are supplied now at the rate of 6 men per hook if a hook is discharging bag cargo in units weighing 140 lbs. and over. If on any day no piling men were supplied it would mean that there was no cargo of this description. If that type of cargo was there the men would refuse to handle the cargo. The phrase used was "Thapiwala nahi" (There are no piling men). The Port Trust has not departed from the principle on which piling men are supplied. Helping gangs are not a regular or necessary feature of cargo handling on shore, and are only provided for operations additional to the normal processes of cargo handling. They are provided by the Port Trust at cost and only to specific requisitions. Their utilization in the datum period falls into two categories, long carry from or to the receiving or stacking sites and dragging heavy packages to the stacking site. Long carry includes removal to or from a stacking or receiving site which is not within the bounds of the transit shed. The explosion in the docks on 14th April 1944 practically destroyed Victoria and Princess Docks (This has been referred to in the Administrative Report of 1944-45 at pages 17 and 11). With the berths in these docks awaiting reconstruction there was considerable congestion in Alexandra Docks to which the maximum number of vessels were diverted. It became the practice for agents of vessels to cart in export cargo for pre-shipment shortage at berths adjacent to the vessel's actual alongside berths where sufficient space was generally not available. This entailed considerable "long carry" and necessitated increase of helping gangs. The conditions have improved progressively since 1948 with the gradual reconstruction of Victoria and Princess Docks. As regards heavy packages the term includes any package that cannot be stored inside the shed and must be towed on a four wheeled trolley to the open space at the back of the sheds, but excludes packages weighing 5 tons which are classified under Dock Rule 73 as "heavy lifts" and are packed off or loaded by a floating crane working overside at the vessel or by heavy lift cranes at jetty end. With the progressive use of tractors the utilization of helping gangs for heavy packages should virtually be extinct. It is true that a certain element of 'long carry' is implicit in the handling of all heavy packages since these must be stored in the open space behind the sheds. With the utilization of tractors this aspect of the handling of heavy packages has been extinguished since a small additional distance does not make extra demands on a tractor or forklift truck. Despite all these factors which should have gradually extinguished the need of helping gangs, they have been utilized by agents for increasing output, but instead of an increase in output there has been a steady fall. Apart from this evidence of Shri Shaikh, the statistics at Ex. C-20 and Ex. C-21 show that there has been no reduction in the use of helping gangs as compared with the datum period. Here it may be noted that in paragraph 74(m) of the statement of the Transport and Dock Workers' Union there is a complaint that stevedore employers have reduced the earnings of workers by introducing a large number of helping gangs. This is contrary to the complaint in the rejoinder about the inadequacy of helping gangs being responsible for fall in production.

46. With regard to the allegation that the change in the tally system has contributed to the slowing down of production Shri Shaikh has stated that it has not. Where two clerks were performing two operations, one has been eliminated. The tally clerk formerly had to take down the mark and number of the package on the tally sheet. He had to make a mental note of what marks had preceded or whether a package before him was the first of that mark. He had to go up and down checking up the marks before making a fresh entry to the main mark. In the new system the process is mechanical as he makes a fresh entry of every package under different marks that comes in a sling to him. Formerly the entry of the marks was made by both the tally clerk and the remark clerk if the package was in a doubtful (damaged superficially) condition. The remark clerk had to enter the description of the package, the marks, the number of the packages and remarks in long hand as to the apparent outward condition. At present the tally clerks use one of the three abbreviations, B for broken, C for chafed and D for damaged. If the package is intact no remark is required. Ex. C-49 has been produced by the Port Trust to show that the number of tally clerks has increased gradually from 270 in October 1945 to 774 at present.

47. As regards the argument relied on by the Unions about the change in the pattern of trade Shri Shaikh has stated that the determination of the datum line is dependent on the kind of packing or the trade zone from which the particular commodity came. Cases, crates, cartons, bales, drums and bundles are types of packing. Some items of cargo like iron and steel bars are loose. These conditions have not altered. There are consignments of cargo coming now that did not come before and for these new datum lines have been proposed based on statistics. He has further stated, "In certain cases entire shipload of drums of bitumen or asphalt may be received and it may be necessary to lay down specific datum which would be obviously higher. What we have worked in the datum line is an average of various commodities in varying proportions. So even if the proportion is changed there is no need to change the datum lines as on the average it evens out." The trade figures are at Ex. C-18, U-28, U-29, U-30. It cannot be denied that there has been a great change in the tonnages of some of the articles exported and imported; but it has to be considered that some of the articles mentioned in C-18 in which there has been a marked change are not handled by Port Trust shore labourers. Oil cargo, for instance, is pumped by ships to the shore. There is no satisfactory evidence that the changes in the quantities of import and exports have been of a nature which account for lower production as compared to the datum line period; and in any case the argument regarding the pattern of trade does not explain the specific case of progressive fall in the output of bulk grain. In the landing of bulk grain, none of the factors alleged to have lowered production, such as shortage of gear or of tally clerks, have application. The only thing required in unloading bulk grain is a sling which brings out the grain.

48. On the question of delays caused by Customs examination Shri Shaikh has stated that there has been a slight difference between the procedure now adopted and that in the datum period, but the examination in both the periods has been rigorous. So far as import is concerned Customs examination has nothing to do with unloading from a ship. It is done subsequently at Customs examination centres situated at different places in the Docks.

49. The Unions have stated in the rejoinder that the placement of cargo has affected the rate of discharge. On some lines stevedore workers have experienced great difficulty in sorting out cargo meant for Bombay. Shri Shaikh has produced some stowage plans and stated that mixture of cargo cannot ordinarily happen as stowage plans show that stowage of cargo in a ship loaded for different parts is distinct in separate portions of the ships and is not haphazard and jumbled in any specific stowage place. Cargo for the first port of call is loaded last at the loading port, the cargo for other ports being loaded prior to this in different sections of ships. It may be that on occasions due possibly to the collapse of a stack some cargo from the next port of call may fall on the cargo meant for local discharge. To that extent only a few packages may be found on the top of local cargo; this happens very rarely.

50. With regard to the allegation that on account of employment of casual labour employed by the Port Trust the output has declined, the Union has relied on some exhibits to show that at times an opinion was expressed at the meetings of Trustees that output of casuals had affected output. The Port Trust has produced Ex. C-42 to show that the output in 1949 in the case of gangs exclusively manned by casual labour used to exceed the datum line. Shri Shaikh has stated that there has not been much difference between the output of casual labour and A and B categories of labour. In the initial registration workers who had worked for 6 months with toliwalas were registered. The casuals in the employment of

the Port Trust have been working in the majority of cases from 1948 onwards, the only exception being a certain number recruited to conform with the provisions of the Minimum Wages Act. It may be noted here that promotion to A and B category is from casuals. Recently 455 casuals were at one stroke promoted to A category and 500 to B category, in consequence of the decision of the Labour Appellate Tribunal sanctioning an increase in the A category.

51. It has been urged in the arguments addressed by Shri Phadke that the Port Trust is to blame for not taking disciplinary action to stop the habit of workmen coming late and knocking off early. When the point was put to Shri Shaikh in cross-examination he referred to the difficulty that since 1951 from which year references of disputes in the Docks came up before Industrial Tribunals, the Tribunal has to be approached for permission, to take disciplinary action against any worker. The time taken to take action against individual workers is a sufficient deterrent to employers. He has stated, "If an individual comes 10 minutes late and I have to produce 20 documents and evidence to prove it the administration would have very few officers left to attend to the running of the entire port." Shri Shaikh has further stated that if an officer is present ordinarily there would not be go-slow but there are not enough officers at every berth. He is not exaggerating on this point. Ex. C-72 shows that the output of cement bags on S. S. Rose Bank from 5th January 1955 to 13th January 1955 was much below the datum line. But on 6th January 1955 when I visited the ship in the presence of representatives of the Port Trust, the Unions and Stevedore employers, (the visit was not in connection with the question of production or go-slow but in connection with an issue which arose in application under section 33 of the Industrial Disputes Act whether the workers were justified in insisting on loading cement bags in tray slings and refusing to unload them in net slings) the figure shot up to 111 i.e. considerably above the datum line, and I was present only for about an hour and a half. This exhibit also shows on days when there was intensified go-slow the number went down to 11 in the day shift of 9th December 1954, 25 in the night shift, and 9 tons in the day shift of 10th December 1954. On 10th February 1955, when I visited the Docks I watched the unloading of drum cargo for a short while. Ex. 43 which is the tally sheet initialled by me shows that at 1-10 p.m. the tally clerk had tallied 9 slings totalling 50 drums in 20 minutes. Each drum weighed 370 lbs. The total tonnage was therefore 8½ tons and therefore the datum line could have been very easily exceeded if work was carried on at that rate.

52. It will be convenient at this stage to deal with the evidence of Shri Pinto, one of the five Secretaries of the Transport and Dock Workers' Union. He has been examined to support the contentions in the Unions' rejoinder and to rebut the evidence of Shri Shaikh. I am however of the opinion that the evidence of Shri Shaikh can be relied on and I have not been favourably impressed with the evidence of Shri Pinto. Shri Pinto was present at the hearing for about a month when addresses of the counsels were going on, before he gave evidence, and he was treated as on duty as the Port Trust permitted a certain number of their employees who are Union officials to attend the hearing to instruct counsel, etc. Shri Pinto has, however, stated that he did not give instructions to Shri Phadke and he was present only because other Secretaries of the Union have experience of industrial cases and he has none. It appears that having heard the lengthy submissions of both sides, he had opportunity to prepare himself carefully for the evidence that he was to give. In his evidence which extends to 85 typed pages he has tried to exaggerate his own duties and tried to show that officers above him were not doing their duties or were figureheads. For instance he has stated that when Labour Inspectors come on rounds "they talk to me about something other than work and go away." He has stated: "The shed superintendent has to obtain my signature on this book. It is his duty to copy tonnage from the labour form at the end of the shift and obtain my signature on it." (As if the shed superintendent is under him, when the contrary is the position). In contrast we find that when Shri Shaikh was asked what his duties were he started by saying that his first duty was to carry out the instructions of the Docks Manager. Shri Pinto has stated how Shri Seymour Williams had posted him for some months to do overtime duty for 24 hours a day when in fact there was no work at all and he got overtime pay for no work at all, but he did not think it necessary to report that there was no work. In his anxiety to support the case of the Unions and damage the case of the Port Trust he has gone so far as to say that the use of mechanical gear slows down the output, that the gear supplied after the datum line period is not superior to the gear supplied during the datum period. (There is complete proof to the contrary). Though the evidence that during the toliwala period the toliwalas did not engage the required number of men in the gang is conclusive he has denied the fact, and on the contrary stated that they sometimes engaged more. To make a certain

point regarding difficulty of crane operating at upper floors, he stated that the trestles (stands) were about 2 ft. 9 ins. by 2 ft. 9 ins., but when he was asked to measure them and then give evidence the next day he had to admit that they were 12 feet by 9 feet. His duties are on the shore only, but to show his knowledge of stevedoring work he first said that he went on board ship when there was an accident, then he stated that he went 50 times to see if work was slow (which was no part of his duty) and finally he tried to show that he acquired knowledge of stevedoring work because he went on board ship to meet friends from whom he learnt work when he was thinking of taking a job as foreman in a Stevedoring firm. He exaggerated the time required to close hatches and said it took sometimes 90 minutes. When it was specifically put to him that the time never exceeds 15 or 20 minutes he gave an evasive reply. Often he avoided giving straightforward answers to questions. This is illustrated by the following questions and answers:

Q.—Are asphalt drums also rolled?

A.—In my experience lubricating oil drums and heavy drums of caustic soda are rolled. If the caustic soda drum is damaged then it is carefully handled on the hand cart. Drums bitumen and drums asphalt are taken on hand carts. It is my experience in 7 Victoria Dock that when one of the Government officials was to visit the shed when the first consignment of big tyres manufactured in Bombay by Firestone were exported, my services were taken by the department to decorate the shed with the help of making room gangs, all the scattered packages were stacked, extra sweepers were ordered to clean the shed and I had to take lot of trouble to keep the shed cleared.

Q.—On what grounds do you say that the Port Trust gives cranes on hire even though it needs them to earn more money?

A.—When cranes are needed for ship work they are being shifted or hired to consignees by railway branch staff.

Shri Pinto gave evidence showing a detailed knowledge of stevedoring operations on board ship and when he was questioned:

Q.—I put it to you that it was no part of your duty to go to the hatch of a ship or on board the vessel at all.

A.—I do not know how many parts are there for my duties but I do the duties as a sincere servant of the Trust in the interest of the department to see if I can prepare some idle certificates by which the Trust will get revenue.

The witness stated that the rate of discharge from ships depended on the size of the hold and when he was asked "Is it not a fact that when the hold of a ship is large the square of the hold is large, and when the hold is small the square is small?", he replied "As long as I have not measured the holds I cannot say."

Though Shri Pinto described himself several times as a faithful servant of the Port Trust he has in his evidence revealed his conception of duty and on his own showing he is a person capable of committing frauds. He has described how one night in the third shift of Alexandra Dock when it started raining he as well as the stevedore supervisor slept for the whole night and when they got up in the morning and saw other vessels working they faked figures of tonnage supposed to have been discharged, and he got overtime payment for the whole night. He stated that he sometimes stopped work on the hook to enable piling of bags to be done and when he was asked if it was not a fact that he had no authority to stop work and whether he had stated in any of his reports that he had done so he replied, "I have not as the stevedores will copy that remark or the agent's representative may copy such remarks from the record and may make reports against the officers for failing to supply the required labour. Since I want to be in the good books of the officers I do not make such reports. The fact that a hook had stopped work would be known to stevedores but the stevedores will not write that remark in their daily report because the Port Trust has not written such remarks on documents. Stevedore staff and Port Trust staff work in almost all cases as brothers. If the stevedores make certain mistakes I may not report them to the Port Trust and when the Port Trust Department makes mistakes the stevedore staff may not report to their officers."

53. On the day on which the lengthy evidence of Shri Pinto concluded Shri Phadke complained to the Tribunal that the Port Trust was bringing pressure on Shri Pinto not to give evidence and that threats are held out to him and he was considering making a written application to the Court for the protection of the witness. This complaint was no doubt made on instructions given by Shri

Pinto. It is not believable that Port Trust officials could have held out threats to the witness with a view that he should not give evidence against the Port Trust, at the stage when his evidence was practically concluded. When I questioned him about the threats alleged to have been held out he replied, "When I was going to the docks yesterday some casual labourers shouted slogans against me saying 'Casual mazdoor lok ka dushman hai'. No one gave me threats that I would be beaten, etc. but the temper in the docks is such." It is on such flimsy excuse that a complaint was made by Shri Pinto against the Port Trust. Further comment of Shri Pinto's evidence is not necessary. It is sufficient to say that reliance cannot be placed on his evidence.

54. The Unions have produced a number of exhibits to show that from time to time fall in production has been due to factors other than go-slow by workers. A large number of these exhibits are proceedings of meetings of the Port Working Committee at which, on some occasions, conflicting opinions were expressed by some members. Subject to this observation it will be convenient to summarise his evidence. Ex. U-56 contains the minutes of the Port Working Committee on 8th October 1949. They show that the Committee expressed satisfaction with the increased tonnage figures which indicated a quicker turn-round of vessels. One of the members Captain Fitchett, observed that delays in customs appraisal were still occurring. At another meeting of the Committee on 4th November 1949 Mr. Kirkwood Brown desired to record the Committee's appreciation of the general all round improvement in the Docks. Ex. U-54 contains the minutes of a meeting of the Port Working Committee on 16th June 1950 which were relied on to show that some cranes had become immobilised due to defective chains. But at the same meeting the Chairman observed that the comparatively poor out-turns revealed in the statement showing the daily tonnages worked against the corresponding output in the corresponding datum period 24th May to 13th June was due largely to the slow rate at which food ships were worked. Ex. U-59 (as corrected by the minutes at Ex. C-100) shows that at the meeting on 11th August 1950 the Chairman observed that the low output figures were due to Stevedores not going all out. Supervision was not very effective, work started late, hatches were closed much before the official closing time and stevedores were inclined to slacken as datum line output was approached so that they could avoid paying bonuses. Mr. Hill said that only one such case had come to notice in which the Stevedore had slackened as the datum was approached and that it was definitely not the practice of the Stevedores and if such a case occurred the Association would hold no brief for such a member. Mr. Kirkwood Brown complained at the same meeting about serious delays in the shifting of cranes. Ex. U-56 also contains minutes of a meeting of the Committee held on 30th March 1951 at which the Dock Manager expressed the view that there would be an improvement of 50 per cent. in the outturn of export cargo if there was co-operation from the Customs authorities. The minutes of the Committee meeting dated 27th April refer however to delay in clearance of cargo after landing on account of Customs difficulties. The minutes of the Committee meeting, dated 3th January 1951 show that the Chairman observed that there had been a marked improvement in discharge in the Docks, but he could not give an assurance that his rate would be sustained as it depended on too many intangible factors, one of which was the attitude of labour. He said that the discharge of foodgrains, which was at the rate of between 900 to 1,200 tons a day was 3,000 tons a day, and on one day it had exceeded 4,000 tons. At the meeting on 21st December 1951 the Docks Manager observed that the turn round of ships was excellent and clearances of foodgrains satisfactory. A different picture is given by the Chairman at the meeting on 8th January 1952 (Ex. U-58) when he observed that the daily discharge of foodgrains had gone down to 2,000 tons. At the meeting on 14th February 1952, Mr. Master, one of the Trustees, observed that the output on foodgrain ships was distinctly better in that most of the foodgrain ships had worked in excess of the datum standards. The Chairman stated that the foodgrains output was only slightly better, but the overall position showed that tonnages actually handled were below datum standards. He expressed his opinion that the piece-rate system should be introduced. Ex. U-65 contains minutes of some meetings in 1952 at which congestion in shed is referred to, resulting in slowing down of discharges from ships. At the meeting on 18th April 1952 the Chairman referred to congestion in sheds affecting discharge of foodgrains. The minutes of the meeting on 27th June 1952 (Ex. 69) show that the Chairman pointed out that the rate of discharge of foodgrains at No. 8 Alexandra Dock was very low. It had been at the rate of 400 tons a day in this shed which was empty while in more congested sheds the discharges had been 1,400 tons a day. Shri Narayana attributed the poor rate of discharge to slackness on the part of stevedore labour and crane-men. The Chairman said these reasons were not valid; under precisely similar conditions the discharges in other sheds had been 1,100 to 1,200 tons a day. The Docks Manager stated that discharge ex S. S.

Carodrop at No. 8 shed had been at the rate of 30 tons a hook on 26th June, while ex S. S. Essex Trader at No. 5 shed it had been almost 74 tons a hook on 25th June by the same Stevedores. The Chairman stated that if the rate of discharge was not appreciably raised berths to foodgrain ships would have to be reduced. The Chairman further stated that the drop in output was too large to be attributed to the poor output of labour. Mr. Seth (Stevedores' representative) expressed the view that the poor output was due to go slow tactics of labourers. In Ex. U-70 which contains the meeting of the Committee held on 10th April 1953, we find the following statements:

"Mr. Kirkwood Brown pointed out with reference to the statement placed on the table showing the comparative position of tonnages discharged and the datum lines fixed, that the output of labour was unsatisfactory. The shortfall of tonnages handled in tonnages handled in comparison with the tonnages required under the datum lines was, for the period under review, viz. 11th March to 7th April of the order of about 20 per cent. This he roughly calculated, would involve each ship in a loss of about Rs. 13,000. The only conclusion that could be arrived at from these figures was that, if there was no systematic "go slow" policy in existence, labourers were so well paid that there was no incentive for them to put in extra efforts to earn a bonus.

The Chairman stated that labour was indifferent to its functions and responsibilities. There was recently a progressive decline in the rate of discharge of foodgrains. Whereas a record discharge of 4,020 tons was achieved some time ago in a single day, and discharges of 3,000 to 3,500 tons per day were not uncommon, the present rate had dwindled down to 1,600 tons per day and had even been as 1,100 tons. There was no systematic "go slow" policy that was being followed; the cranemen, except for one particular instance, were not at fault. It was the whole system that had to be changed. If a system of piece rates was introduced, the output of labour would be considerably increased and its reward would be in proportion to its output. The Union officials had, however, in negotiations with the Port Trust officials, adopted such an unreasonable attitude and made such absurd demands for piece rates that the matter had to be dropped. The datum lines were low; they were as a matter of fact low even prior to the reduction by $6\frac{1}{4}$ per cent. of the datum lines by a former Chief Labour Commissioner. In the present circumstances, the Chairman stated he foresaw no hope of any appreciable increase in the output of labour though everything was being done by the Docks officials to achieve better results."

Three months after this when the meeting of the Port Working Committee was held on 21st July 1953 we find the following statements made:

"Mr. Master observed from the summary placed on the table, of the position showing the daily tonnages discharged against the datum lines fixed, that, for the period 9th June 1953 to 30th June 1953, the quantity discharged fell short of the datum lines by 37.7 per cent. the inference to be drawn from these figures, he stated was that the cost of operation was increasing while productivity was decreasing. He said that suitable representations should be made to the Government of India pointing out that the drop was not imaginary but real and that it involved continuous delays to shipping. The competitive power of shipping was being crippled with the result that the pressure of rail competition in the coastal zone was being increasingly felt. He proposed that all the interests involved should make a joint demarche on the labour Minister and the Chief Labour Commissioner with a view to making them continuously aware of the declining trends in productivity."

"The Chairman stated that he would give the matter consideration, he, however, felt that everything boiled down to the necessity for the introduction of the piece work rates in regard to which he had already explained the position at some length at previous meetings of the committee. There were three sets of labour that had to be placed on piece work rates, shore labourers, Stevedore workers and cranemen. The only solution lay in the working out of a scheme of piece work rates that would embrace these three classes of Dock workers. Attempts had been made in the past to hammer such a piece rate system. The negotiations had left to an impasse."

The abovementioned minutes relied on for showing that delays in customs examination affect output are for the years 1950 and 1951 during which period output was better; there has been a deterioration from 1952. The minutes of meetings in 1954 (Ex. U-55 to 57) refer to delays in customs examination affecting clearance of cargo from customs examination centres after their being stacked. We do find mention of complaints regarding customs delays for some months in 1954 in the case of export cargo. Allowing for the fact that delay in customs examination may have affected output in respect of export cargo during some months in 1954, it does not account for the progressive fall in output of import cargo and export cargo from 1952 onwards nor can delay in customs examination explain the progressive fall in the output of bulk grain.

55. The Unions have relied on the above and some other exhibits to show that from time to time factors such as congestion in sheds, cranes not in good order, delay in shifting cranes, shortage of gear, etc. have been responsible for the fall in output, but such factors which have at times affected output adversely were in operation to a greater extent in the datum period as can be seen from the evidence of Shri Shaikh as well as the following official reports. In the Departmental Report for 1947-48 we find it stated (vide Ex. 36) that delay in clearance of import cargo resulted in serious congestion in the sheds. The administrative report for 1947-48 refers to heavy congestion in the Docks due to diversion of traffic from Karachi and the shortage of transport and storage accommodation in the city. The Departmental Report for 1948-49 shows that various steps were taken to get rid of congestion. Buffer sites were provided to relieve congestion. Provision was made in the Budget for spending Rs. 21 lacs on the development of the Basin for lighterage traffic, and for the construction of six sheds. The administrative Report for 1948-49 also deals with various measures taken to relieve congestion and it is stated, "These and other measures have yielded satisfactory results. During the past few weeks the Docks congestion has eased to a considerable extent and delays are not being experienced any more and at the time of writing this report no vessel is waiting in stream for a berth. In fact there are now vacant berths." In the Departmental Report for 1949-50 it is stated, "After a year and a half during which detention to shipping was a regular feature of Port working, no vessel was found waiting in the stream for the first time in September 1949. This satisfactory situation endured till the end of the year." In the Administrative Report for 1950-51 it is stated "In taking stock of the year 1950-51, the first thing which comes to notice is the complete absence of congestion in the Docks. In spite of the pressure of traffic remaining substantially the same as in the preceding three or four years, normal working conditions were maintained throughout the year. With the completion of the construction of the Uncleared Goods Warehouse at Alexandra Dock, the new Transit Shed at No. 2 Victoria Dock and C and D sheds at Prince's Dock, all of which are being provided with electric goods lifts, conditions in the Docks in regard to the storage and clearance of cargo have been greatly improved. The construction of other transit sheds is also well in hand. Mechanical cargo handling equipment is being brought into use and every effort continues to be made to make this Port really efficient." In the Administrative Reports for 1952-53 and 1953-54 it is stated that there was no semblance of congestion in the Docks. From the above it is seen that regular congestion in the Docks which existed during the datum period has disappeared and occasional congestion in particular sheds does not account for the overall decrease in production per annum.

56. The Unions as well as the Port Trust and Stevedores' Association have relied on certain statistics with regard to the cost of production, the former to show that the cost of production per ton (production in the sense of tonnage loaded or discharged) has gone up, the latter to show that it has gone down. In Ex. U-32 the Transport and Dock Workers' Union has tried to show that according to the figures of the total tonnage as shown in the Departmental Reports, the cost per ton has gone down. The Stevedores' Association has relied on Ex. 63 to show that the cost of loading and unloading has gone up. The Port Trust has in the statistics at Ex. C-75 answered Ex. U-32 and shown that the cost has gone up progressively from 19.25 annas in 1951-52 to 25.38 annas in 1953-54. The Port Trust has pointed out that the cost per ton has been arrived at by dividing the expenditure on the labour wage bill by the tonnage of cargo handled. It is further stated,

"Expenditure on stacking and piling will vary with the predominant types of cargo handled during the year, while expenditure on making room in sheds and removals to Uncleared Ware-houses will be decided by traffic condition; obtaining at the Port from time to time and year to year. The expenditure on the other items listed under extra labour

services similarly is not directly connected with cargo handling in the Docks.

It will be obvious that the inclusive cost per ton arrived at on the aforesaid method of calculation cannot provide a correct index of labour efficiency in so far as extraneous elements unconnected with actual labour output enter into the calculations. For example, during the financial year 1951-52, an inclusive figure of annas 35.51 per ton was obtained as the cost per ton on account of the abnormally high expenditure necessitated by prevailing traffic requirements under the heads of Making room in sheds and Removals to the Uncleared Warehouses. Both these factors are unconnected with labour efficiency as such and the figure does not therefore provide a correct index for comparative purposes of the output of labour.

For this purpose the cost of wharfage labour per ton obtained by dividing the expenditure on quayside labour alone by the tonnage of the cargo handled has the merit for reasons for comparison of not including expenditure on extraneous factors."

It seems to me that the correct method of computation is that given by the Port Trust and it shows that there has been a progressive increase in the cost of production. However I do not place much reliance on this point for coming to the conclusion that the production per man has gone down as there is sufficient reliable evidence to prove it and not dependent on statistics which are capable of different interpretation, and so I have only briefly referred to the conflicting contentions on this point.

57. The Unions have relied on Ex. U-31 to show that the fall in production was due to a large proportion of cargo with a low datum line tonnage. But in this Exhibit it is assumed that datum lines for all cargo other than American cotton cargo and bulk grain averages 40 to 45. This is not so. The datum for manganese ore and iron ore is 75, for small coastal cargo including preferential berths 70, for rock phosphate and other bulk cargo 66, for bag cargo such as sugar, rice, etc. 90 and for all bag cargo over 50 per cent., 68. The imports of these commodities in 1953-54 came to 9 lac tons. Therefore the basis for Ex. U-31 is not correct. The Unions have prepared statements at Ex. U-12 showing that in the datum period a large number of ships did not reach the datum line. But these calculations are based on the datum lines without the reduction of 6½ per cent. If this reduction is taken into consideration (and the datum lines now proposed allow for this reduction) the proportion of vessels reaching the reduced datum line would be greatly increased. The Port Trust has produced calculations at Ex. C-92 showing that during the datum period the Port Trust would have, in the aggregate, paid not only the full time rate but extra for 415, 551 tons at twice the piece rate processed on the turnout. The calculations also show that the proportion of tonnage exceeding datum lines to the proportion below datum line is 415, 551: 1,30,521. This was so even though at that time there was no incentive bonus scheme, and therefore no incentive to workmen to produce more.

58. A factor which has gone to make the datum line in favour of workmen is that the datum line calculations are on the basis that 14 men including the toliwala comprised each gang and the output per man is calculated on the basis of 14 men per gang. In fact the toliwala was in charge of 4 gangs but calculations are on the basis that every gang comprised 14 persons including the toliwala. Apart from this there is conclusive evidence that in fact the toliwala did not engage as many as 13 men. The report of the Labour Investigation Committee in 1946, an extract from which is at Appendix I to the Port Trust's written statement shows that the toliwala actually employed on an average 10 men to a gang. It is stated in the Report:

"The Toliwallas who belong to the same class as their labour make a considerable profit and occasionally their earnings run into figures. Their margin of profit consists of the margin between what they get from the Port Trust on piece-rates and what they pay to the workers. The main source of the Toliwalla's personal income is that while the tonnage rate is fixed on the assumption that 14 men will be employed in each gang, actually the number employed is on an average round about 10 only. There may be cases, occasionally, especially in regard to fresh recruits, where the wage paid to the worker may be less than the minimum prescribed by the Port Trust. Moreover, sometimes when there is a pressure of work in the Docks the Port Trust allow the Toliwalas to engage extra labour and this is paid for separately. On such occasions the Toliwallas, more often than not,

make their own gangs do the work for a little extra remuneration and keep to themselves the margin of the profit."

In a Report of the Docks Manager dated 7th August 1946 quoted in para. 42 of the Port Trust's written statement there is reference to the desirability of decasualisation in order to eliminate phantom gangs and musterings of passes by at labour checks. Shri Shaikh has also stated that in the toliwala period there was no identification card or token system, and so it was difficult to check whether 14 men were working in the gang or not. When a check was made it was invariably found that despite complaints from the sheds and agents that there were few men the count invariably revealed 13 men but a surprise check immediately thereafter showed new faces. The toliwala was known not to employ the full strength of 13 men, and importers' labourers and others working in the sheds were paid a couple of annas to come and line up for the count. These were phantom men referred to in official reports. A helping gang was ordered out on the agent's account and was supposed to assist the mazdoors for long carry; although the toliwala claimed that the helping gang was supplied in fact it was non-existent. All these facts have operated so as to lower the datum line for calculations are on the basis of what was the output of 14 men when in reality that output was of about 10 men.

59. In the Port Trust's written statement A it is pointed in paragraphs 48 and the subsequent paragraphs that subsequent to the datum line period, mechanisation has been affected to a degree which should easily have enabled an increase of output of at least 20 per cent. over the datum figures. Eighteen tractors, 80 mobile cranes, 6 electric cars, and 24 fork-lift trucks have been provided. Heavy packages which cannot be hand carted are placed on 4-wheeled trucks direct from the sling at the ship's side, and the trucks are towed to the stacking area by means of tractors. Before these mechanised tractors were introduced, the trucks were dragged by mazdoors by ropes tied to the two bars, and apart from the physical effort involved considerable time was wasted since the process was necessarily very slow. These tractors were introduced between May 1948 and July 1950 and if work was properly done should have led to a significant increase in output over and above the datum line. 80 mobile cranes are available for regular use as against 7 such cranes available in the datum period. These cranes are provided at places where import cargo has to be stored and are utilized for unloading the trucks towed to the stacks by tractors. Electric cars which have been introduced since January 1953 are battery driven elevating platform trucks designed for receiving slings direct at the ship's side and thereafter removing the same to the stacking site without manual effort since the trucks are power propelled. These trucks are used principally for fragile cargo requiring careful handling and apart from being a labour saving device speed up operations and increase the output. Fork-lift trucks which have been introduced progressively from August 1948 to August 1952 are petrol driven vehicles provided with a fork which can be mechanically manipulated to pick up a package or a properly formed sling of packages at the hook on the ship's side; it holds the load in position up to a height of 15 feet while the truck moves to a stack and there releases the load in required position up to a height of 15 feet. In general these trucks are utilised for unloading laden trucks in transit sheds where a mobile crane cannot enter. The capacity of all this mechanical gear as measured in pounds is given in Ex. U-39. Improved up-to-date patterns of hand carts and 4-wheeled trolleys fitted with ball or roller bearings have been introduced during the last 5 years. All this has not been disputed by the Union. More tractors and mobile cranes are being purchased, and shortly 34 up-to-date electric cranes which have been ordered (and of which some have arrived) will replace old cranes (*vide* Ex. 127). In para. 64 of the Port Trust's written statement it is stated that the equipment in the Bombay port is more advanced and up-to-date in design than at any other port. The Stevedores' Association has in para. 71 of its written statement pointed out that since 1949 approximately 58 per cent. of the ships discharging and loading cargoes in the port are new ships designed to facilitate quick discharge and loading of cargo and fitted with the latest types of winches.

60. Then it has been urged that changes made in the datum line account for the fall in production. But the changes proposed in the datum lines by Ex. C-60

(page 3) were not put into effect. This is clear from the proceedings of the meeting of the Port Committee meeting held on 21st December 1951 at which the Chairman explained how datum lines were revised in a few cases but these revisions could not be given effect to as adjudication proceedings were pending. The facts given in Ex. 118 also show that the revised datums proposed in Ex. C-60 have not been introduced.

61. It will be convenient, here, to deal at this stage with the evidence about the alterations authorised by the Trustees in the datum lines but which were not given effect to on account of pending adjudication proceedings; as these additional datum lines have been proposed in the processing of the piece-rate, it is necessary to see that these additional datum lines represent proper standards of production. Ex. C-68 shows that in February 1949 the datum for vessels going to the U.K. was reduced from 56 to 55 to make it conform with the continental datum line on the ground that vessels loading for the U.K. also load for the continent. Ex. U-58 gives the minutes of the Port Working Committee dated 2nd September 1949, wherein we find the following discussion:

"Concerning datum levels of output, Mr. Hill gave details of discharge of a shipment of Bitumen which had far exceeded the datum line fixed for this type of cargo. The Banus paid to his workers in this connection was in the region of Rs. 4,000 which was very considerable and in consequence a loss had been sustained in the working of this vessel. He admitted that this was an exceptional case since it was easy cargo to handle. Mr. Kirkwood Brown agreed that instances of this nature where the datum line was much exceeded, involving a loss to the Stevedores, were bound to occur and said that Shipping Companies would have to face up to taking steps to obviate Stevedores sustaining such losses. He suggested that the datum level of output for Bitumen should be raised in view of the present level being obviously inapplicable."

In the minutes of the meeting dated 11th November 1949 there is the following further discussion on the subject:

"Mr. Hill drew attention to the Incentive Bonus Scheme and instanced occasions where better tonnage output resulted in heavy financial losses due to the datum levels of certain commodities like drums of asphalt, bitumen and oil and bags of cement being inappropriately fixed having regard to their easy handling nature. He urged that the Scheme should be reviewed in the light of results achieved to date and suitable adjustments made to remove some absurdities which have been revealed in the fixation of datum levels. He felt strongly that the substitution of piece-work would be preferable and more equitable to all concerned including the labour."

The Chairman said he was aware that certain commodities had been included under the general heading "Other cargo" and would call for figures with the object of separating them and suitably raising the datum levels having regard to their easy handling nature, if the Trustees agreed."

Ex. C-89 shows the analysis of vessels in the datum period, on the basis of which the continental datum line was arrived at and Ex. C-94 gives the basis for other additional datum lines. Ex. C-60 is an extract from the proceeding of a meeting of the Trustees on 23rd January 1951. In it is stated, "The datum line tonnages as fixed by T.R. No. 602 of 1949 and at present in force are shown in statements 'A' and 'B' appended to this note."

It will be seen that under "Imports", datum lines have been provided for "American Cotton", "Bag Cargo" and "Bulk Grain", and under "Exports" for "Ores in Bulk". Except for these items, no datum lines were provided for the different kinds of cargo but they were fixed on the basis of output achieved on specific steamer like Dollar Line or Mogul Line, or on vessels plying along the coast or between India and certain countries.

Commodities such as full loads of fertilisers, cement, drums of asphalt, etc. have been imported in large quantities during the last year or two; and output figures in respect of these cargoes are available.

It is accordingly proposed to add to the existing list of datum lines a few items for cargoes such as cement, chemicals, oils, etc. The items proposed to be added, as also the other amendments suggested in the existing statement, are shown in the attached Statements 'A' and 'B'.

The opportunity is also being taken to amplify the headings in a few cases, e.g., "American Cotton" will be amplified to read "Bales Waste, Yarn, Twist, Textile and Cotton of all varieties"; "Mogul Line" will be amplified to read "Mogul Line, Middle East, Red Sea and Egyptian Ports", etc.

Further, in view of the proposed provision of additional datum lines, a foot-note will be inserted, laying down that if a vessel's cargo consists of 25 per cent. or more of any of the commodities for which a specific datum has been provided, such vessel will have its datum calculated on a proportionate basis. The insertion of this note will necessitate the consequential deletion of a couple of items."

These recommendations were made by the Traffic Committee and were adopted by the Trustees with slight modifications. No exception can be taken to the proposed revision of datum lines except that the datum line for bulk phosphate sulphur and chemicals has been based on inadequate data.

62. The Unions have placed the blame for the failure of the incentive bonus scheme on the employers. In the statement of claim of the Transport and Dock Workers' Union it is stated that the employers have violated the provisions of the scheme, that third shift tonnages were inflated to deprive the workmen of incentive bonus, etc. Except that there was one case when a Stevedore slackened when datum line was being reached (*vide* Ex. C-100) and that this was not the practice, there is no satisfactory evidence that the scheme failed because the employers did not want to pay incentive bonus. Ex. C-93 shows the proportion of tonnage handled in the third shift:

Year	Tonnage of cargo handled in 1st and 2nd shifts.	Tonnage of cargo handled in third shift.
1949 (July-Dec.)	11,29,228	50,800
1950	20,59,992	1,76,522
1951	20,14,646	2,77,628
1952	22,70,384	2,66,217
1953	23,63,819	2,22,65
1954 Jan. to Oct.	22,11,038	1,50,184

The above figures show that figures of third shift tonnage have been very small in comparison with the first and second shift tonnage, for which incentive bonus was payable. The figures given in the Bombay Port Trust's written statement show that in 1953 the fall below datum line was 9,61,850 tons. The total third shift tonnage handled for that year is not even one fourth of this. Total third shift tonnage upto October 1954 is 1,50,184 tons while the deficit below the datum line is 13,33,506 tons. There is therefore no substance in the complaint that third shift tonnages were inflated to deprive the workmen of incentive bonus. Then it has been urged that Stevedores had deprived the workmen of bonus and a settlement was arrived at by which Rs. 60,000 were paid as per agreement Ex. U-2. The correspondence Ex. C-97 shows that the facts leading to this payment were as follows. The responsibility for payment of incentive bonus was at first that of individual employers. They issued slips showing the bonus earned and the workman had to collect the amount from the employer concerned. Some workers lost their slips. In July 1949 on the recommendation of the Chief Labour Commissioner datum lines were altered and the rates of bonus changed with retrospective effect. The amounts had therefore to be recalculated. It was in these circumstances that the dispute arose and the Stevedores' Association took over the duties of preparing statements and paying incentive bonus on behalf of its members. The amount of incentive bonus payable from 1st January 1949 was therefore settled by agreement by which the Association agreed to pay Rs. 60,000 in settlement. In actual fact Rs. 68,300 were paid. However, the Association, at the request of the Bombay Dock Workers' Union agreed not to recover the excess payment. The compilation also shows that the Association had offered to pay incentive bonus for the third shift, but the Union, which at first agreed to the proposal later turned it down. Then it was pointed out that for the purpose of calculating incentive bonus idle time under 4 hours was ignored as per Trustees' Resolution No. 785 of 1948, but even in the datum period idle periods of less than 2 hours were ignored, periods in excess of 2 hours and less than 4 hours were counted as 4 hours and idle periods consequent on a vessel completing cargo at a hook in the course of a working shift were ignored.

62A. It was suggested during the hearing that the blame for lower production and for unauthorized absence of workmen for an hour to an hour and a half cannot be laid entirely on the workmen, that the Port Trust is to be blamed for not supplying adequate amenities in the shape of canteens, etc. This argument must be rejected. It is true that there is scope for improvement of canteen facilities and other amenities provided, and this point is dealt by me at its proper place under issue 9. But the argument advanced entirely overlooks that the facilities now provided in the shape of drinking water, canteens, sanitary blocks, etc. are superior to those in the datum period during which the output per man was very much higher. Before 1949 there were no canteens provided by the Port Trust. The circumstance that Stevedore workers have been hitherto working 45 shifts a month and sometimes 60 to 70, that Port Trust shore workers and others also, until recently, used to earn a lot of overtime, that shore workers and other workmen were in 1953-54 paid arrears of overtime on account of the application of the Minimum Wages Act, amounting to over a crore of rupees, over and above the overtime under the Port Trust Rules actually earned, that on account of all this, workers earned more than a fair wage and could easily have afforded to bring their tiffin or meals, or take it at the canteen or hotels in the Docks area, all these show that conditions of work were not so uncomfortable when workers preferred to work such long hours to earn overtime or wages for double shift work. I say "preferred to work such long hours to earn overtime or double shift wages" because in the many disputes that have come up for adjudication since 1951 it has never been the demand that workmen should not be asked to work overtime; on the contrary, compensation has been claimed for loss of overtime earnings (see for example my Award in Reference (TT-CG) No. 3 of 1954); and the proposal by the Stevedores' Association to increase the recruitment so as to prevent Stevedore workers from working for an excessive number of shifts in a month was until very recently opposed by labour representatives on the Dock Labour Board. If workers preferred to work excessive hours to earn overtime, it is not possible to take the view that the unauthorized absence from duty for about an hour and a half during the shift is due to absence of adequate amenities.

63. The causes of the failure of the present wage and incentive bonus system to secure a fair output and quick turn round of ships may be summarised as follows: (a) Labour has been indifferent to its functions and responsibilities. Workmen do not exert themselves and there is unpunctuality amounting to unauthorized absence for an hour to an hour and a half during the shift. This has been already dealt with in detail. (b) They have preferred to work two shifts a day (with intervals of unauthorized absence) and thus earn double the wages, instead of turning out adequate work in one shift. (c) Stevedore workers have been permitted to work at least 45 shifts a month. This is admitted by the Unions in the rejoinder. Books produced by the Dock Labour Board showed that in the period July and August 1953 the average employment of Stevedore labourers was 60 to 70 shifts per month and that their income was on the average between Rs. 200 and Rs. 300. At a meeting of the Dock Labour Board on 21st May 1954 the Chairman stated, "The Board cannot sit and watch the labour force working 2 shifts and 3 shifts continuously. This had resulted in the fall in the efficiency of labour." How can a worker work efficiently if he habitually works so many shifts in a month? The proposal of the Dock Labour Board to increase the number of Stevedore labourers was opposed from time to time by representatives of the Transport and Dock Workers' Union (*vide* Ex. C-71). Only very recently during the course of this adjudication the Dock labour has resolved unanimously that no workmen should work for more than 33 shifts a month, and at the time of writing this award fresh recruitments are being made to bring the Resolution into effect. In the case of Port Trust workers also a great deal of overtime work was done by shore workers and crane-men, before the application of the Minimum Wages Act. (d) The vicious system of illegal gratification of Rs. 2 to 3 (euphemistically called "speed money") paid regularly by Stevedores at the commencement of every shift to crane drivers, already adequately paid, has had a demoralising effect on other sections of workers. When crane drivers always got speed money and they did not, why should they do more than the minimum of work? There are grounds for suspecting that on occasions such bribes have been paid to other sections of workers also (*vide* Port Trust's letter to the Ministry of Transport at Appendix E to the written statement). (e) The defect in the incentive bonus scheme was pointed out by the Special Officer, Re-organisation (*vide* quotation from his report at paragraph 35 of this Award). Although the incentive bonus scheme was described by Col. Seymour Williams the then Docks Manager who worked out the scheme, as "having the effect of placing the workers on straight piece work with a minimum guarantee" (*vide* Ex. U-5) it has been a piece work system only in name because of the high minimum guaranteed wage paid whether the worker exerted himself or not. As

was pointed out by the Docks Manager at a meeting with representatives of Stevedore employers and the Unions on 28th August 1952 (*vide* Ex. C-28);

".....the incentive to improved output which was inherent in all piece work schemes would disappear, if the workers realised that a monthly wage was assured to them, whatever was the standard of output achieved. The Dock workers would run away with easy types of cargo on which good output rates could be achieved. When the more difficult types of cargo were encountered, they would jog along knowing full well that a guaranteed monthly wage was assured to them. This was one of the defects of the present Incentive Bonus Scheme. The only guaranteed wage that could be assured to labour was a monthly minimum guarantee, if workers could not be provided with work throughout the work. This principle had been accepted in the Decasualisation Scheme and such a guarantee was also provided in Calcutta and Madras, in which Ports a piece rate basis of payment was functioning."

That Dock workers have not "run away" with even easy types of cargo, and there has been a fall in production notwithstanding improvements in gear and improved types of vessels which must have rendered it easier to reach the datum line must be ascribed to idleness, slow work and to the other factors mentioned in this paragraph. It is difficult not to agree with the submission of the Port Trust in its written statement that experience has shown the utter futility of expecting Dock labour to work with reasonable efficiency on a time rate system of payment. The Transport and Dock Workers' Union and the Bombay Port Trust Employees' Union have in their statements of claim proposed, as incentive to improved output, things like better housing, hospitals, booking halls, sporting and recreational facilities, sanatoria, canteens, shower baths, etc. But this is a matter which falls under issue 9 which is "What essential amenities are lacking at the workplaces and should be provided". This point will be dealt with at its proper place. Here it is sufficient to say that amenities cannot be considered as "incentive schemes" or "bonus schemes". While the provision of better amenities will promote the conditions under which the workers can work with greater efficiency, the provision of better amenities will not solve the problem that has to be faced, *viz.* the failure of the present wage system to secure fair out-put and quick turn-round of ships.

64. It is generally recognised that a steady increase in the productivity is an essential condition for assuring a higher standard of living to the labouring classes and systems of piece work where they can be properly applied help to assure increased production and thus promote the general welfare. The answer to the question whether the present wage system is satisfactory from the point of view of a fair outturn of work is in the negative. The progressive deterioration in the output of workers in the Bombay Docks is detrimental to the interests of the Port Trust to the long run interests of the workers themselves to the business community, and to the country. In the publication "Unofficial Stoppages in the London Docks" by the Ministry of Labour in England it is stated at page 6, "Time work has come to mean in practice a serious slowing-up of work, which is particularly damaging to the shipping employer, to whom a delay in the turn-round of shipping usually means extremely heavy costs." 98 per cent. of the Dock work in London is done on a piece rate basis. In the book "Payment by Results" published by the I.L.O. in 1951 it is stated at page 90 that certain dock workers are on piece work in Denmark, Ireland and New Zealand and the United Kingdom. In Cochin payment of stevedore workers is on piece-rate. In Calcutta the majority of shore workers are on piece-rate. When in 1948 the Chairman of the Bombay Port Trust wrote to the Chairman of the Calcutta Port Trust for remarks on the piece-rate scheme proposed to be introduced in Bombay and the objections taken by the Dock Workers' Union, the Chairman Port Trust replied as follows (*vide* Ex. C-28):

"The majority of our contract labour were paid at the piece-rate system and therefore we did not have any great opposition to our adopting this system in our scheme for employing departmental labour. I am totally opposed to the daily rate system especially at the present time when there is such a widespread tendency on the part of labour to go slow. The daily rate systems by itself offers no incentive for better work so that unless it is obtained with the piece rate system it is bound to be uneconomical.

The main objection of the Bombay Dock Workers' Union to your scheme appears to be its novelty and also the fact that the individual labourer will not know from day to day what he is earning. I have not the details of your working procedure, but it appears to me at first sight

that you have unnecessarily complicated your scheme by introducing a variety of rates, and also your method of calculating the piece work earnings could, perhaps, be simplified so that it is more easily understood by the men. Our own method is much simpler and as soon as our new labour office staff gets a little more organised it will be possible for us to post up every day a statement showing the earnings of each individual labourer for work done by him two days previously."

It may be noted that in Calcutta the piece rate does not vary according to cargo but is a fixed rate for all cargo.

65. In the course of the arguments it was again and again mentioned by Shri Phadke that the Port Trust has proposed a piece rate as a punitive measure against the workmen for not turning out sufficient output, and that a piece rate system as a punitive measure must fail. The contention is not well founded. That the Port Trust has not acted in a spirit of punishing workers is shown by the fact that concessions were made from time to time to workmen. Though payment by piece rate was one of the conditions in the Decasualisation Scheme, the Port Trust gave way and agreed to a time wage. The bonus was changed from a slab system to a uniform double rate of payment for output above the datum line. The datum lines were reduced by $6\frac{1}{2}$ per cent. though the Trustees were convinced that the datum lines were not high. In the discussions in the Trustees' meeting on the proposal to reduce the datum line by $6\frac{1}{2}$ per cent., Shri Master, one of the Trustees pointed out that allowing for the $6\frac{1}{2}$ per cent. reduction in the datum line tonnage recommended by the Chief Labour Commissioner, the datum line tonnage per shift per hook for bagged cargo would be 90. The corresponding pre-war output figure was 190 tons. It was difficult to account for this steep fall in 1949—at a time when from the Prime Minister of India downwards all leaders were urging the workers to produce more. The datum line adopted for purposes of the Incentive Bonus Scheme already represented 50 per cent. of the pre-war output; and the Trustees should be enlightened as to the grounds for reducing it further. Shipping services would be made more costly in consequence of the proposals to reduce datum lines. It was obvious that in spite of the Incentive Bonus Scheme with its low datum line tonnages, "go slow tactics" were being deliberately adopted by the workers. The modifications made in the Incentive Bonus Scheme must entail serious addition to the shipping costs. The Chairman wound up the discussion by saying that the reduction of $6\frac{1}{2}$ per cent. in the datum lines was only appeasement of labour intended to secure their goodwill and co-operation (*vide* Appendix B to the Port Trust's written statement in reply to the statement of claim of the Bombay Port Trust Employees' Union).

66. Here it might be mentioned that the Unions have not always been opposed to piece rates. We have seen that one of the terms of the settlement in November 1947 with the Bombay Dock Workers' Union was the introduction of a wage system on the model of the Calcutta scheme (i.e. piece-rate system). The Scheme could not be finalized as the Union resiled from the agreement. Ex. C-26 contains minutes of meetings between Port Trust and Union representatives on 28th August 1952 and subsequent dates. At the first meeting Shri Kotwal representing the Bombay Dock Workers' Union admitted that the Union had been considering the question of a piece-rate scheme for workers and enquired if the Port Trust had a ready scheme for discussion. He stated that as far as the Union was concerned the principal issue was the assurance of a guaranteed monthly rate to workers. The Union considered that if the workers' earnings in a month from the piece rate fell below their prescribed monthly wage, the scheme should definitely provide for the difference to be made up. The Docks Manager stated that the incentive to improved output would disappear if a monthly wage was assured, whatever the standard of output. The general consensus of opinion at the meeting was that the number of rates for different types of cargo should be reduced so that assessment of earnings could be simplified and the rates generally could be made intelligible to the workers. While the disputes which have been referred for adjudication by this Reference were in the stage of conciliation the Transport and Dock Workers' Union wrote a letter dated 24th June 1954 to the Chief Commissioner of Labour (Centre) proposing certain terms of reference for a piece-rate scheme.

67. If a piece-rate system is, as I consider, essential to secure a fair output for a day's wage and a quick turn round of ships, I do not think that theoretical objections raised at the hearing such as that no system of payment by results can be successful if good relations do not exist between the management and the workers should be allowed to prevail (there is no doubt that the relations between the Port Trust and the Transport and Dock Workers' Union and the Bombay Port Trust Employees' Union have not been cordial for some years; the former

Union has in its statement of claim called the Port Trust "admittedly a notorious employer"). It has been argued relying on some passages in the book *Payment by Results* published by the I.L.O. that (a) piece rates must always be introduced with the consent of the workmen, (b) existing time rate is guaranteed, (c) there must be precise and accurate measurement of work to be done. It has to be considered that the object of wage incentive schemes is to increase production. The employer does not do it because he has a go-slow problem. He desires that extra effort be made to earn a higher wage and increase production. Where bricklayers normally laid 400 bricks the standard for bonus was set at 625. The result was an average of between 800 and 900 bricks per day (*Payment by Results*, page 94). Such a system can only be successful with the consent of the workmen. In the case before me there has been a progressive decline in production in spite of an incentive bonus scheme based on the normal production minus $6\frac{1}{4}$ per cent., let alone a qualifying standard for bonus based on 50 per cent. more than the normal output. It is also pointed out that the guarantee of the existing time rate is not a feature of all incentive schemes (*vide Payment by Results* at page 6 where it is stated, "No guaranteed time rate is shown in Charts IV, VII, VIII, XI and XII because the systems to which these charts refer do not provide for such a guarantee.") As regards measurement of work it is urged that the fixing of piece rates in other countries is based either on time studies or past experience. At page 115 in the *Payment by Results* it is stated with regard to the rubber industry in Australia, "Because of the large variety of operations it is not possible to time study every worker. Estimating on the basis of experience is, therefore, used to a large extent". In the publication "Wage Incentive Schemes" at page 10 it is stated that fixation of a datum line is one of the modes adopted in wage incentive schemes.

68. In support of the argument that there are too many variables in the work of loading and unloading for a piece-rate to be properly processed the Unions have relied on Ex. U-8 which contains the remarks of the Docks Manager at a meeting of the F. & G. Committee held on 13th November 1951. They are as follows:—

"The time employed for reaching particular discharging stages cannot be related to the volume of cargo handled during this period. It is commonplace knowledge that an even rate of discharge cannot be achieved in dealing with the total tonnage of cargo carried by a vessel. The stowage of cargo is a material factor which enters into computation. Merchandise capable of easy handling may often be over-stowed with heavy lifts the discharge of which is contingent upon the supply of equipment and gear. In the initial stages vessels generally require to break bulk and clear obstacles paying the way for getting at cargoes in the centre of the hatches. At certain stages it would be again necessary to manhandle or drag out cargoes from the hatch coamings for the cranes to lift from the centre. The supply of mobile cranes, tractors and other ancillary gear would also affect the rate of discharge. It would consequently be futile to attempt to establish any precise relationship between the total time of discharge and the proportionate period taken for off-loading two-thirds of the tonnage."

But the remarks were made in connection with the proposal of the Special Officer, Reorganisation that demurrage charges should be in slabs rising with the increase in delay in clearance and not in connection with the piece work system. It is pertinent to note that the Exhibit shows that at the same meeting the Docks Manager observed as follows:—

"In the protracted negotiations the Administration throughout laid stress on the Piece-work Rates of payment in preference to the time scale. The Docks Manager in his staff proposals for implementing the final Decasualisation Scheme observed that he viewed the abandonment of the Piece-work formula in favour of the Daily Wage system with the greatest misgivings. The Piece-work system had proved capable of adjustment to all types of work and to the various fluctuations inherent in the conditions of work in the Docks. The Piece-work system would have definitely provided the labour with an incentive to greater effort."

69. Next it was urged in the arguments for the Unions that the datum lines which line-wise or zone-wise are unscientific, that a proper datum line should be cargo-wise and attention is drawn to the system in the ports of London where there are 2,026 different piece work rates for import cargo and 960 different rates for export cargo (Exs. U-14 and U-15). Shri Phadke who argued this point was asked whether the Union could suggest any alteration to the system proposed by the Port Trust and the Stevedores of processing piece

rates according to the datum line, and he replied that the Union could not suggest any alternative scheme as a piece work system was simply unworkable on account of the number of variables in the processes of loading and unloading nor could the workmen guarantee any output under the time rate system. The criticism of the proposals cannot therefore be said to be constructive. In the port of London the set up is different (*vide* paragraphs 8, 12, 13 of the Leggett Committee Report). In London there are 470 employers free to choose their employees and the employees are free to choose their employers. It is after this free choice has been exhausted that labour is compulsorily allocated. In Bombay (except in regard to certain preferential berths where shore labour is engaged by contractors) there are only two employers, the Bombay Port Trust and the Dock Labour Board. Secondly in the London system the number of cargo rates is so great that fixing a piece-rate commodity-wise is a fertile source of dispute. In the Leggett Committee Report it is stated:

'Almost all dock work in London is paid by the piece. A great variety of cargoes is handled, and a rate must often be agreed for each different commodity. Although there are in most trade groups in the Port agreed schedules of rates, the number of commodities is so great that differences are always liable to arise in interpreting or applying the schedule in any given case. Claims for increases on the agreed rates may be made according to the method of stowage, the state of the cargo after a sea voyage, or the handling facilities in the hold, and all such claims must be settled as they arise by 'spot settlements'.

Shri Shaikh has stated in his evidence, "Piece rate is fixed cargo-wise (in the U.K.) because the port receives entire shiploads of commodities in the majority of instances. The draft is not read while work is going on for purposes of arriving at the quantity of output." It may also be noted that the zone-wise or line-wise system of piece rate prevailed in the *toliwala* period from 1911 to 1948 and not only were there no complaints about it but it was mentioned during the hearing, and not disputed, that *toliwalas* made good profits. Moreover the system proposed by the Port Trust and the Stevedores' Association is not only line-wise but is partly cargo-wise.

70. The Union has relied on some calculations in Ex. U-25 to show that the datum line in Cochin is lower. In the first place piece rates in Cochin have fixed on an *ad hoc* basis without reference to any datum line or production standards. Secondly, conditions in which cargo is unloaded and loaded at Cochin, the distance to which the cargo has to be carried, the availability of equipment and mechanical devices are different from those of the most up-to-date port in India, and such comparison without a close study of the conditions there is of little use. The same answer would apply to the argument of the Union that the piece-rates in Cochin are higher than those proposed here. Ex. C-110 shows that the average employment of Stevedore workers in Cochin is 10 days per month, as against the admitted fact that on an average employment for Stevedore workers in Bombay has been 45 shifts in a month.

71. At the hearing of the case apprehensions were expressed on behalf of the Unions that if a piece-rate is introduced, and wages go up, the employers will try to do rate cutting, but the answer to that argument is that it cannot be done except by agreement or adjudication. The Award will be in force for a year. It must not be supposed that datum lines once fixed are sacrosanct for all time; but any alterations should be on well defined principles so as not to give rise to the complaint that higher wages will lead to rate cutting. In my opinion the correct principles for revision are those summarised at page 343 of Watkins and Dodd's *Management of Labour Relations* where it is stated:

- "1. When greater production is the result of greater application and effort and the exercise of greater intelligence on the part of the workers, there should be no objection to increased total earnings per man, and rates should not be revised.
2. When increased output and earnings are the effect of technical changes introduced by management, such as a change in the ratio of machine work to hand work in the operation, there is justification for rate adjustments.
3. When the income of piece-workers is extraordinarily high or low compared with the earnings of other employees who spend the same amount of time, energy, skill, and intelligence on their work, even if the ratio of mechanical to human factors remains the same, there is reason for consideration of rate revision. In other words, if the earnings under established rates are inadequate to maintain a decent

standard of living, or if they are so high as to be out of any reasonable proportion to the amount of effort, intelligence, or skill involved, readjustment in rates is not objectionable."

72. The Unions have produced some exhibits to show that wages paid to coal stevedoring workers and coal bunkering workers, which were fixed by agreement between the Bombay Dock Workers' Union and the companies concerned are much higher than the rates proposed now for bulk grain cargo and that they vary with different hatches. But no comparison can be made because in the coal agreements the workers have guaranteed a certain output. The Unions while asking for an increased wage for the workmen concerned in this reference are unwilling to guarantee any output. Moreover the coal workers get employment on the average, for a fraction of the month only. The Dock Workers' Union had asked before the Board of Conciliation on 7th March 1949 for a higher rate of wages on the ground that employment for coal workers was 12 days in a month (*vide* Ex. C-98). Ex. C-99 shows that for some months in 1954 and 1955 there was no coal stevedoring work at all, and that the average number of days for which workmen got employment in coal bunkering in the period from July to December 1954 was 8.5 days. Besides coal bunkering is done by head labour and is dissimilar to ordinary stevedore work. Having regard to all these facts and the guarantee of output it is understandable that higher rates are paid for such casual piece work. As regards the argument relied on about hatch-wise variations in the piece-rate, it is not essential that there should be hatch-wise piece-rates; the datum line calculations even out such variations. It may be noted that in London where there is a very large number of rates for different types of cargo, the piece rates do not differ according to hatches. Next it is urged that the piece rates offered now by the Port Trust are in some cases less than those offered in 1948 (*see* Ex. C-7). The Port Trust has answered this point as follows. The piece rates then proposed did not provide for payment of any premium for output above a datum, while the present scheme provides for premium at double rate for output above a datum. Secondly, at that time the shift hours were 9 and 8 so that overtime was not payable until after 9 and 8 hours; while now the shifts are 8 and 6 hours and comparatively more overtime would have to be paid. Thirdly, the rates offered then were *ad hoc*, as datum line calculations had not been made.

73. Then it is pointed out that the proposed piece-rate scheme does not provide for time occupied in opening and closing hatches. But during the datum period also hatches had to be opened and closed and datum line calculations have taken this factor into account. The Stevedores' Association has also pointed out that if its proposals for co-terminous shifts are accepted, there will be less time spent in opening and closing hatches. Shri Phadke further argued that the present proposals involve a fixed number of stevedore workers and shore workers in a gang, and there is no provision for variable factors requiring a different rate of manning gangs. Now it has to be borne in mind that formerly stevedore gangs consisted of a varying number of 6, 7 or 8 men including the tindel. In June 1947 the Dock Workers' Union demanded a fixed number of 9 men including the tindel. By the agreement dated April 1948 the number was fixed at 8 including the tindel. It is urged by the Stevedores' Association that the Union having obtained the fixed manning it desired, it wants now to use it as an argument against the piece work system. It is further pointed out by the Association that in London there is no provision for manning to be varied according to changing factors except at page 8 of the Export Piece rates where provision is made for work beyond a certain distance of the coaming and this is in relation to bag cargo only, and does not apply to other containers such as bales, casks, cases, etc.

74. The next question that arises for consideration is what provisions are necessary to secure that there are no mistakes in calculating the tonnage handled per shift. The Port Trust has proposed that a complete tally will be maintained and as almost all parcels have their weights on them the weights can be easily noted there will be no difficulty. Where there is no weight or where weighing is necessary, weighing will be done. Here it may be mentioned that in a letter by the Bombay Dock Workers' Union dated 14th April 1951 to the Port Trust (in Ex. 33 produced by the Union) the Union itself suggested recording the weights of packages in tally sheets and stated, "We do not think you need to instal weighing machines for the purpose of recording weight. You are aware that weight is clearly marked on every package and tally clerks can record the weight without much difficulty." Shri Pinto has also admitted that almost every package has the weight marked on it. In the written statement the Port Trust had also offered a stick tally by the workmen themselves for the satisfaction of the workmen, but it was stated on behalf of the workmen that it would involve labour and the Port Trust did not press for it. In the written statement it is also stated that

arrangements have been made with the vessels' agents to lodge the freight manifest of every import vessel in advance of the commencement of discharge. A counter check will be provided by the tonnage finally advised by the vessel's agents on completion of discharge. In the case of export cargo there is no difficulty in assessing the tonnage handled as shipment is never effected without an accompanying shipping bill duly completed showing the weight of the goods to be shipped. The Stevedores' Association has stated (in paragraph 29 of its written statement) that as the Port Trust is carrying out the function of tallying all cargo discharged or landed, such tally figures should be accepted as correct for assessing the volume of work handled by the stevedore gangs. As regards overside discharge of cargo whether in stream or in dock, the tallying carried out by the shipping companies should similarly be accepted. As regards weighing of import of bulk cargo it was stated on behalf of the Port Trust that arrangements will be made to weigh the cargo handled in each shift, and until satisfactory arrangements can be made for this workmen will be paid on a time rate.

75. A few other objections to the piece-rate system may conveniently be dealt with here. It is stated that datum line cannot be reached in the case of manganese ore as only 4 wagons are supplied during the day and three at night and at the Princess and Victoria Docks only two are supplied at night. A provision has been made in the scheme sanctioned by me to meet this objection and in any case workmen will be entitled to a time-rate if on any day they cannot reach the datum line on account of circumstances beyond their control. Then it is stated that unloading of American cotton cargo at the Frere basin depends upon the tides and availability of bargemen. This difficulty may not arise now as arrangements have been made for unloading and fumigation at the Princess Dock. It is stated that loading of scrap iron is a difficult task and datum line may not be reached even if workmen work reasonably well. This objection is answered as it is proposed that this work will be on time-rate. It is stated that non-availability of tally clerks results in faulty calculations. On behalf of the Port Trust it is stated that the Port Trust will see to it that there is a sufficient number of tally clerks. If tally cannot be taken owing to the absence of the tally clerk or other reason, the workmen will be entitled to the time rate for the period. Then it is urged that there would be difference in output in respect of monsoon months and fair weather months. The datum line calculations have taken production in all seasons into account. Figures of output have shown that production in monsoon months has not always been lower (see C-9, C-34 and C-64). I have carefully considered the point whether datum monsoon lines should be lower; but if this is done the datum line for fair weather would have to be raised. The Unions do not urge that there should be a separate datum line for the monsoon. Besides the provision made that if production is below datum line on account of circumstances beyond the control of the workmen the workmen will be entitled to a time rate sufficiently safeguards the interests of the workmen. The datum lines as modified in paragraph 81 and set out in Appendix B to this Award represent fair norms of production and piece rates can properly be based on them. In the setting of norms of output mathematical precision cannot be expected nor is it feasible. In Reynolds' "Labour Economics and Labour Relations" (New York 1949 Edition) it is stated at pages 369-70 that the question of what constitutes a proper speed of work is incapable of any strictly scientific answer and that "Who is to say just how fast a man should work for the benefit of the employer or the consumer? It seems unavoidable that there will be differences of opinion between production and engineering officials on the one hand, and workers and their union representatives on the other hand, and that actual work speeds must be a matter of bargaining and compromise rather than of scientific measurement." If that is the position in Western countries and yet piece rate systems have been successful and have resulted in increased production and increased earnings for workmen, scientific precision cannot be expected from norms of production represented by datum lines for Dock work. A fair result is what is aimed at and that is the aim that I have kept in view in fixing the piece rates. I have also borne in mind that the task should be set at a reasonable level and not too high, so that the health and safety of the workmen should not suffer and they should not be tempted to neglect safety regulations.

76. In the agreements relating to piece rates for workmen employed in Coal Stevedoring and Coal Bunkering work (Ex. U-10 and U-11) there is a provision that any dispute relating to the agreement shall be referred to the Conciliation Officer (Central) for decision. I was informed that no dispute has been so referred as all such disputes have been settled. It was submitted by all the parties in this Reference that such a provision could be by agreement only and that I could not give my direction the effect of which would be to alter the procedure prescribed under the Industrial Disputes Act for the settlement of disputes. Shri Seervai stated that while he could not commit the Trustees by saying that they would agree to refer any such disputes to an independent person he was of the

opinion that the Port Trust would have no objection to such a procedure and he would advise the Trustees accordingly. In my opinion it is desirable not only for securing the confidence of the workmen that the piece-rate system will be fairly administered but for the settlement of disputes that may arise, such as whether production was below the datum line owing to circumstances beyond the control of the workmen, that there should be a Committee consisting of a representative or representatives of the employers, an equal number of representatives of the workmen and an independent chairman. The Port Trust Act should be amended to provide for such a Committee. The function of such Committee will be (1) to decide disputes which may arise in the working of the piece-rate system, (2) to pay periodical visits to the Docks to see the working of the piece-rate scheme and advise the Port Trust and the Stevedores' Association to remedy any legitimate grievances of workmen as also on methods of improving output. Until the Act is amended to provide for such machinery (and the amendment would have to be put off if an appeal is filed and stay order is obtained against the execution of this award) I recommend that if there are any disputes arising out of the working of the piece-rate system the Port Trust or the Stevedore Association or the contractor as the case may be, and the Union concerned raising the dispute should endeavour to reach agreement and if agreement cannot be reached they should refer it to the Conciliation Officer (Central) for decision.

77. I now come to the question of what should be the piece-rates. Issue No. 2 is, "Are the present rates of wages adequate? If not, what would be the fair rates under the wage system recommended—whether time-rated or piece-rated?" The Unions have stated that the present wages are not adequate and asked for large and all round increases. On the other hand the Port Trust has submitted that the existing wages are fair and adequate and so they do not work hard so as to secure incentive bonus under the incentive bonus scheme. The Stevedores' Association supports the view of the Port Trust. The Unions have referred to the remarks of the Royal Commission on Labour (1931) regarding the heavy nature of dock work, and that the average duration of service is not more than 10 years. But since that date hours of work have been reduced, mechanical devices have rendered work easier, particularly in the case of shore work. Ex.C-101 shows that out of 4402 Stevedore workers, 2533 have 10 to 15 years' service, 137 have 15 to 20 years' service, 41 have 25 to 31 years' service and 40 have over 30 years' service.

78. The following are the consolidated wages of Port Trust gang workers:

A category

B category and purely casua,
category

Cart and Waggon unloaders Rs. 5-1-0 rising to
5-7-0

Morpie Rs. 4-3-0 rising to Rs. 4-15-0

Gang worker Rs. 3-11-0 rising by an anna
every 2 years to Rs. 4-1-0

NOTE.—A category workers get also attendance allowance of annas 12 for every Sunday.

The Unions have filed statements of wages in concerns like the Oil Companies, Imperial Tobacco Co. Ltd., United Motors (India) Ltd., Lever Bros. Ltd., Imperial Chemical Industries Ltd., etc., but they are not comparable concerns. Moreover they are profit making concerns, while the Port Trust is not run from a profit making motive but is a public body constituted by law for giving facilities of a first rate port to shipping interests, the business community and the public. The budget is not in terms of profit or loss but surplus or deficit as in the case of accounts of Government and other public bodies. The figures of the B.E.S.T. are also not helpful as they are affected by the fact that the Municipality took over a private concern, and could not have reduced the scales by reason of the company being brought under public ownership. Subject to their observations however the following consolidated wages of unskilled workers which are given in the Unions' exhibits are taken for comparison with the monthly wage of the Port Trust gang A category worker (including attendance allowance for Sundays) which comes to Rs. 98-14-0—1-10—108-10-0.

Scindia Workshops Ltd.	Consolidated wages for unskilled workers Rs. 98-5-0— 1-10-0—121-5-0
Tata Oil Mills	Rs. 99-15-0—1-10-0—116-11-0 Rs. 103-3-0—1-10-0—112-15-0
Premier Automobiles, Ltd.	Rs. 97-15-0—1-10-0—112-15-0

H. I. Dixon & Co. Ltd. Rs. 99-15-0—3-4-0—119-7-0
(Engineering).

Burmah-Shell, Caltex and other Oil Companies. Rs. 109-15-0—1-10-0—119-11-0—E.B.—1-10-0—134-1-0

It is pointed out, however, that the above figures are based on dearness allowance calculated on the cost of living index in July 1954, that since then the cost of living index has fallen and that if the latest available figures are taken the wages of Port Trust shore workers would be only a little lower than the Oil Companies, while the Port Trust workmen have the additional advantage of an incentive bonus system.

79. The consolidated wages of Stevedore workers are as follows:

Daily workers	Rs. per day monthly workers	Rs. Per month
Tindel	5 4 0	Tindel 193
Senior gang worker	4 4 0	Senior gang worker 148
Winchman	4 4 0	Winchman 148
Hatchforeman	4 4 0	Hatchforeman 148
Khalasi	4 4 0	Khalasi 148
Junior gang worker	3 14 0	Senior gang worker 148
Reserve pool worker	3 14 0	Junior gang worker 133

The Stevedoring companies have to pay the Dock Labour Board surcharge on these rates for meeting the expenditure of administering the scheme, benefits by way of leave, Provident Fund and gratuity to workmen, etc. This surcharge was 50 per cent. and has been reduced from 1st May 1955 to 33 1/3 per cent. It might be mentioned here that wages for Stevedore workers have been higher than Port Trust workers of the corresponding category. But it has to be considered that the work of the Stevedore labourer is more strenuous. He has to work in hatches, sometimes in stuffy and cooped up surroundings, while the Port Trust worker has mechanical devices to assist him such as forklifts, electricars, which can take directly tray slings landed by the sling and haul them to the shed, etc. The Unions have referred to the higher wages paid to Stevedore workers in Calcutta and to the higher cost of living in Bombay as compared with Calcutta. The rates in Calcutta are as follows:

(NOTE.—Figures are taken from Ex. U-83.)		(NOTE.—Figures are taken from Ex. C-109).	
Daily workers.		Monthly workers	
Day	Night		
	Rs. a. p.	Rs. a. p.	
Sirdar	8 4 0	9 1 0	Rs. 155 per month.
Mate	6 4 0	6 13 0	Rs. 135 per month.
Winchman	5 12 0	6 12 0	Rs. 135 per month.
Khamali	5 5 0	5 11 0	Rs. 115 to 125 per month.
	to	to	
	5 12 0	6 3 0	
Rolia	4 12 0	5 0 0	Rs. 110 to 113 per month.
	to	to	
	4 13 0	5 3 0	

From the above it can be seen that the wages of daily Stevedore workers are higher in Calcutta than in Bombay, but the wages of monthly Stevedore workers who number about 20 per cent. of the total number of Stevedore workers in Calcutta are lower in Calcutta than in Bombay. It has however to be borne in mind that in Calcutta the night shift is 8 hours without a break as against 6 working hours here, and the number of days in the month for which there is work is 5 to 11 (Ex. C-108). In Madras Stevedore workers are classified into three categories, tindels, winchmen and ordinary stevedore workers and their daily wages are Rs. 3-10-0, Rs. 3-10-0 and Rs. 3-6-0 respectively (vide Ex. C-111). There is no Provident Fund or leave with wages at the present moment, but it is stated that it is proposed to be introduced. The average employment is 13 to 19 shifts per

month in Madras. In Cochin which is a seasonal harbour the average employment of stevedore workers is 10 per month (*vide* Ex. C-110). It is not clear whether the average is for the season only or calculated over the whole year. Comparisons of wages with those of Dock workers in Calcutta, Madras and Cochin therefore cannot quite be made both because of the shorter hours here and the fact that while in those places employment is only for a few days in the month, Stevedore workers in Bombay have been admittedly working 45 shifts a month; they have also been regularly getting a bonus of 53 days' basic wages in a year. Port Trust A and B category workers have been getting work every day. Ex. C-104 shows that no A or B category mazdoor has been on retaining allowance since 10th February 1953, and even before this period also employment was fairly regular. It is true that hereafter employment of Stevedore workers is to be restricted to 33 shifts a month because of the Resolution of the Dock Labour Board passed unanimously very recently in the course of this proceeding, and recruitments are being made to give effect to this Resolution while I am writing this Award. But even so Stevedore employees in Bombay will be in a very much better position with regard to regularity of employment than Stevedore workers in Calcutta, Madras and Cochin.

80. Taking into consideration the wages of Port Trust gang workers which do not compare unfavourably with those of unskilled workers in other concerns in Bombay, and the circumstance that they knock off about an hour to an hour and a half during the day out of the working hours, in addition to the authorised recess interval, that they have not been giving a fair out put for a day's wage. I would not be justified in awarding an increase in the time-rate, but as I am assuming that with a piece work system, workers will work reasonably well and will be reasonably punctual the piece-rate should be no processed that a workman working efficiently should earn more than an adequate time-rate. I therefore propose to process piece-rates on the basis of an increase in the time-rate (except in the case of monthly Stevedore workers who were given an increase in July 1953 and deserve no further increase). The increase should be as follows:

Port Trust Workers—

Morpia	6 annas
Gang worker	5 annas.

Stevedore workers—

Tindal	Rs. 0-12-0
Winchman	Rs. 0-11-0
Senior gang worker, hatchforeman	Rs. 0-9-0
Junior gang worker and reserve pool worker	Rs. 0-8-0

NOTE.—As the work of the winchman requires greater skill than a Senior gang worker or hatchforeman or khalasi, I propose a higher increase in their category.

81. I now come to the question of the processing of the piece-rates. I accept the submissions of the Port Trust and the Stevedores' Association that they should be processed in relation to the datum lines reduced by 6½ per cent. as recommended by the Chief Labour Commissioner (Central). In the case of the additional datum line for bulk chemicals (phosphates, etc.) the datum line proposed was on the basis of inadequate data. I called for further data. They are at Ex. C-138. Taking into consideration this further data the datum line requires reduction to 94 for 8 hour shifts and 70 for 6 hour shifts. On behalf of the Port Trust and the Stevedores' Association it was stated that they had no objection to the reduction. The datum lines approved are at Appendix B. The Port Trust has proposed that the piece-rate should be worked out on the following basis, the base being the present wage of Rs. 2-2-0 and dearness allowance of Rs. 1-9-0 for the lowest workers of A category:—

$$\frac{\text{Rs. 2-2-0 plus Rs. 1-9-0} \times \text{number of men in the gang}}{\text{output (datum line)}} = \text{rate per ton for the gang.}$$

It is proposed that the difference between the lowest time wage mentioned above and the actual time wage of each workman will be credited to his account. For instance if a workman's wage is Rs. 2-6-0 he will be paid 4 annas in addition to what he has earned for the day. The earnings of morpias will be similarly assessed. The dearness allowance increases from Rs. 1-9-0 to Rs. 1-15-0 per day when a worker reaches or exceeds a basic wage of Rs. 51 in his monthly wage scale. This difference in the dearness allowance will be credited to this daily earnings in addition to what he has earned under the piece-rate. It is pointed out that the proposal is not a novel one but is taken from the Port of London Authority's scheme where a ganger (head of a gang) receives a shilling extra as his daily wage in comparison to a docker. In the case of U.K. cargo the datum line is 86 tons for day-cum-night work of 14 hours' duration. Datum for 8 hour shift is 49 tons. Cost of engaging 13 labourers (including morpia) is Rs. 3-11-0 x 13.

Piece rate for the 8 hour shift would be Rs. 47-15-0 for 49 tons i.e. Re. 0-15-8 per ton for the gang. The difference between the basic wage and the actual wage at the time rate, and between the basic dearness allowance and the actual dearness allowance in each workman's case will be credited to his account by way of an allowance. Workmen employed on work other than at hooks are proposed to be paid at time rate. When the output of a shore hook gang exceeds the relevant datum line in any shift, the gang will be entitled to payment at double the piece-rate in respect of every ton of cargo in excess of the datum line. The proposals of the Stevedores' Association are similar. The Port Trust has proposed a minimum guarantee as provided by the Minimum Wages Act. The Minimum Wages Act is not applicable to stevedore workers. The Stevedores' Association has however proposed the same wage as a minimum guarantee i.e. irrespective of output. Hatchforeman relievers and winchman relievers are proposed to be paid on the basis of the average earnings of the workers working on a ship in that shift. For example if a winchman working on hatch No. 1 has earned Rs. 4-12-0 and a winchman on hatch No. 2 has earned Rs. 5 then the reliever winchman will be entitled to Rs. 4-12-0 plus Rs. 5 divided by 2: that is Rs. 4-14-0. With regard to Stevedore workers who are now paid on a monthly wage the Association has proposed that they should be paid on the same basis as pool workers when engaged in loading and unloading operations. When not employed in loading and unloading operations they will be paid daily rates calculated at one-thirtieth of their existing basic wage and dearness allowance and for Sundays and holidays as well as for days on which there is no work they will get 1/30th of the basic wage and dearness allowance. I adopt the above basis with the modification necessary on account of the increase in the wage to daily workers. In the case of Port Trust labour instead of Rs. 2-2-0 in the above formula the figure will be Rs. 2-7-0. The rate per ton for the gang will be rounded off to the nearest pie. The piece rates payable to gang workmen and morpias shall come into force subject to the safeguards and according to the provisions set out in Appendix C to this Award. The piece rates for Stevedore workers engaged on daily basis shall be worked out according to the above formula with the increase given and will be subject to the conditions set out in Appendix D. The datum lines approved are at Appendix B. The above rates shall come into force with effect from the date on which this Award becomes enforceable. Directions with regard to monthly—Stevedore workers are given in paragraph 93 of this Award.

82. It will be observed from the detailed provisions set out in Appendices C. and D that every provision has been made to safeguard the interests of the workers. The gang will be paid proportionately at the time rate when labour has to be idle on account of breakdown of cranes or winches, shifting of quay cranes or rigging of ship's derricks, cargo not ready for shipment, late arrival of vessel at the berth completion of loading and unloading before the end of the shift, the actual rain-time during shift working hours and any other reason beyond the control of workmen except slow work on the part of other workmen. This last provision is necessary. In the past sections of workers have been at times adopted intensive go slow tactics, and there are grounds for believing that on at least two occasions the go-slow was directed by a Union. Each of the Unions has workmen at different categories on its membership. If a Union asks one set of workmen to go-slow, it cannot expect that other workmen will be paid at the time rate. Apart from this, to permit disputes to be raised that other workmen have been going slow is to open the door of interminable disputes, and jeopardize the success of the scheme which depends on the co-operation of all sections of workers and ought, with such co-operation, to benefit all sections of workmen. Disputes in the application of the piece work system will be settled as indicated by me in paragraph 76. The other provisions in the Appendix are self-explanatory. The provision that a workman will be entitled to not less than the time rate as fixed by this Award if output is not less than 90 per cent. of the datum line is designed to secure that workmen who make an effort will not suffer in wages.

83. It might be mentioned here that during the hearing it was stated on behalf of the Port Trust that if the present time rate is guaranteed as a minimum without reference to output, it would defeat the object of the piece-rate scheme, the *status quo* would remain, and in that case the Port Trust would be saddled with extra expenditure which would be caused in working out the procedure by engaging extra tally clerks and because of the additional book-keeping required for calculating daily wages according to output, while the problem of slow work and decreasing output would remain unsolved, and in that case the Port Trust would withdraw its request for piece-rates. It has been suggested that only the minimum wages as prescribed by the Minimum Wages Act should be guaranteed. I have considered this point and I have in the Appendices C, D & E laid down suitable minimum guaranteed wages which are higher than the minimum wages prescribed by the Act. The scheme which I have framed is a balanced one, and will, I hope

and believe, secure the worker a fair wage and also secure for the employer a fair output and give an incentive to increased production. It is true that the Port Trust will have to engage extra staff for taking timings, additional book-keeping, weighing, etc. required for administering the piece-rate scheme but as against this there will be increased output. I have borne in mind the effect on the Port Trust finances and the Stevedores of the increases I have awarded. Stevedores, notwithstanding slow work by workmen, have been able to do their business at a profit and have been giving regularly bonus of 53 days' wages in a year to their employees. They increased the pay of monthly Stevedore workers in July 1953 without consulting the Dock Labour Board which has powers under the Scheme to fix wages of Stevedore workers, and this led to discontent among daily workers and demands that their wage scales should be brought up to the level of the monthly workers. The Stevedores have had to pay, until recently, a surcharge of 50 per cent over the wage bill to the Dock Labour Board, for meeting the expenditure of administering the scheme, leave, gratuity and Provident Fund to Stevedore workers, etc. This surcharge has been reduced to 33 per cent. from 1st May 1955. So far as the Port Trust is concerned it might be mentioned that the Special Officer, Reorganisation had recommended an increase in the present surcharge on wharfage rates and other charges from 33.1/3 per cent. to 66.2/3 per cent. He pointed out that the general level of prices had risen fourfold since 1939 while there had been no material increase in the basic rates of wharfage since 1932. In the Budget Meeting on 21st February 1954 the Chairman of the Port Trust referred to the deficits for the two years preceding and recommended an increase in the surcharge for the same reasons as those pointed out by the Special Officer, Reorganisation. He further stated:

"Trade conditions are reported to be deteriorating all over the world and the outlook appears to be anything but bright. A general recession in trade appears to have already set in. It would, therefore, appear that some fall in traffic is inevitable. On the import side, foodgrains, which have figured prominently in the trade of this Port in recent years, are likely to register a sharp drop next year. A similar fall is anticipated in the imports of cotton. On the export side, the traffic in manganese and other ores may contract substantially. The position in regard to other commodities is also uncertain. It would, in the circumstances, be well for us to prepare our estimates of revenue for the next year on the assumption of a contraction of foreign trade."

Shri Master, one of the Trustees, stated at the meeting that for the past nine years the Trustees had been earning surpluses but the Trustees had not even remotely thought of conceding any benefits to shipping or trade in consequence. He stated that the Trustees had financed capital works out of Revenue which was wrong in principle. If large outstandings were recovered and if increased wharfage on P.O.L. traffic was levied the deficit would be converted into a surplus. Further if the amount of Rs. 93.65 lacs towards payment of overtime accrued under the Minimum Wages Act upto 23rd February 1953 and shown as a deficit against the year 1953-54 was adjusted against the years 1951-52 and 1952-53, as the arrears pertained to those years, or was debited to the Reserve Fund, as was done in commercial houses, then the surplus would become a sizeable one and the deficit would be fully covered. In the circumstances he opposed an increase in the surcharge. After some further discussion it was resolved not to increase the surcharge. In the Budget Meeting for the Budget of 1955-56 the Chairman proposed to increase wharfage rate for mineral oils subject to the sanction of Government. As regards the surcharge the Chairman stated:

"I should also point out that these estimates have been framed on the basis that the surcharge of 33.1/3 per cent. at present leviable under the Docks and Bunders Scales of Rates will be continued. The total yield from the surcharge is estimated at Rs. 52 lakhs next year. It is obvious that we cannot afford any reduction in the surcharge, much less its total abolition. We need this surcharge not only to meet our revenue expenditure which is mounting from year to year, but also to strengthen our reserve funds which at present constitute the only available source from which we can obtain the funds required for capital expenditure."

I have briefly referred to the above facts, as I am of the opinion that if additional expenditure on staff, etc. has to be incurred in consequence of this Award and is not counter-balanced by the lower cost per ton on account of increased production under the piece-rate scheme the Port Trust can bear it and there is a scope for increasing some of the wharfage and other charges.

84. I now come to the question whether cranemen (i.e. crane drivers) should be included in the piece rate scheme. The Port Trust and the Stevedores Association

strongly press that the cranemen should be brought under the piece rate scheme. The Bombay Port Trust Employees' Union has represented that as cranemen have been on a monthly time rate for many years they should not be brought within the piece rate scheme. It is also pointed out that in other parts of India crane drivers are on the piece rate. On the other hand the Transport and Dock Workers' Union has represented during the hearing that while it is opposed to a piece rate scheme, still, if the Tribunal introduces a piece rate system, the scheme is doomed if cranemen are not also brought within the piece rate scheme. To the same effect is the view of the Bombay Stevedores and Dock Labourers' Union. In a letter written by the Port Trust to the Central Government on 1st July 1954 (Appendix E to the Port Trust's written statement) it was stated as follows:

"Cranemen occupy a key position in the handling operations connected with the loading and unloading of cargo. If they adopt a 'go slow' policy in the movement of cargo from shore to ship, Stevedore labourers cannot expedite their work. If, however, they adopt a similar policy in conveying cargo from ship to shore, shore labourers cannot increase their output. It will, therefore, be obvious that Cranemen occupy a position of vantage in that they are able to dictate the pace of handling operations. It is this reason which has apparently led to the adoption of the practice of paying speed money for years past to Cranemen so that the work of all the three categories of labour can attain the standard which is expected of them. The practice, however, was for the speed-money to be paid before work commenced and in anticipation of the desired results rather than on the basis of actual results. Early in 1949, the then Chairman advised the Stevedores to discontinue the payment of speed money and labour output dropped precipitately in consequence. On the intervention of the Chief Labour Commissioner the Port Trust, while making it clear that the principle of speed money was not acceptable to it, reluctantly agreed not to object to the payment of a reward the Stevedores might desire to make to the crane drivers for exceptionally good work, provided such reward bore some relation to the time saved in the discharge of cargoes. This attitude was adopted by the Port Trust on the advice of the then Chief Labour Commissioner who expressed himself as follows:—

'Speed-money—It was paid by the Stevedores. It cannot be revised. But if the Cranemen have done good work and finished their task in time shorter than the normal duration, the Stevedores may pay them some 'Bakshis' for such amount of speed work, and I shall have no objection. But speed money should be really speed money in relation to speedy work and must be voluntarily payment at the end of ships' loading or unloading and not merely an illegal gratification paid to the cranemen as normal wage, whether they did work efficiently or inefficiently. It is a matter left entirely to the Stevedore.'

Although this arrangement was acquiesced in by this Administration under the stress of exceptional circumstances, it has always maintained that the payment is objectionable in principle. The clamour for the payment of speed money has now spread to Stevedore workers, Winchmen and also to the Port Trust shore labourers. Recently, the Bombay Dock Workers' Union, representing the latter category actually urged upon the Port Trust that the Stevedores' Association be persuaded to pay speed money to shore workers as was being paid to Cranemen. The demand was preposterous and the Union was informed accordingly in suitable terms. Nevertheless, the institution is being used as a form of blackmail against those responsible for the maintenance of the Port's functions. The speed money normally payable to Cranemen is, it is understood, at the rate of Rs. 3 per head per shift on foodgrain and bulk cargo and Rs. 2 on general cargo. On recent occasions, when it became necessary to increase the rate of discharge from certain vessels, a higher rate of speed money was, it is understood, paid to crane drivers. Instances are cited below of the comparative rates of discharge achieved when normal speed money was paid and when a higher rate was paid.

Rate of discharge.

(a) When normal speed money was paid:

- (1) S.S. "Greenhurst" of 5th August 1953—56 tons per hook per shift.
- (2) S.S. "Stanburn" of 11th August 1953—56 tons per hook per shift.

(b) When higher speed money was paid:

- (1) S.S. "Ittersum" of 3rd August 1953—82 tons per hook.
- (2) S.S. "Emancipator" of 3rd August 1953—82 tons per hook.
- (3) S.S. "St. Edmund" of 29th August 1953—82 tons per hook.

On the 2nd September 1953 the last named vessel attained a discharge of 4,010 tons in a day of 3 shifts. The highest rate of discharge with a similar type of cargo has not, in recent months, exceeded 2,230 tons. It will not be unreasonable to conclude that the quantum of 'speed money' bears a direct relationship to the rate of output; it has been widely suspected that workers adopt 'go slow' tactics if increasing doses of 'speed money' are not paid out. The adoption of these tactics is not confined to any particular section of labourers connected with the handling of cargo. Though speed money is promiscuously paid to Cranemen there are reasonable grounds for the assumption that it is also paid to shore labourers and Stevedore workers. If, for example, the Cranemen only had been paid Speed Money, then the co-operation of the other two Sections of labour in achieving the high rate of discharge recorded would not have been forthcoming. If speed money was paid only to the Cranemen and not to the other Sections, there would have been a heavy accumulation of cargo discharged on the quayside by active Cranemen and allowed to accumulate by inactive shore labourers. This, however, was not the case. The sling loads were trucked into the transit sheds and expeditiously as they were landed, indicating a remarkable degree of co-operation in the achievement of a higher output."

85. In the course of the hearing it was not disputed that "speed money" is paid at the rates given in the above letter to cranemen, that the money has to be paid at the starting of the shift, even if the ship has not arrived or may not arrive. Relieving cranemen are paid at the rate of one rupee per shift. Shri Pinto who has given evidence for the Unions has admitted that there has been competition between two companies in the payment of speed money to cranemen and that he saw on one occasion that the output was more when more speed money was paid. Ex. 24 contains a complaint dated 10th January 1952 by the Stevedores' Association in which it is stated that in spite of the fact that cranemen were being paid the usual speed money they had started working deliberately slow. There is another letter dated 4th March 1952 in which it is stated, "Further to our letter No. 414/51/52 of the 16th ultimo we regret to advise you that the crane drivers are still making demands from the stevedores for payment of extra speed money. On the vessel s.s. 'Ocean Side' berthed at 5 A.D. on 24th February 1952 they made a demand for extra payment of speed money from Messrs. Hill Son & Dinshaw Ltd. Subsequently, the vessel s.s. 'Nissai Maru' berthed at the same shed on 29th February 1952 the crane drivers made a demand from Messrs. R. Sharpe & Son Ltd., also for extra payment of speed money by giving false excuses that Messrs. Hill Son & Dinshaw Ltd., had paid them extra speed money. These tactics of the crane drivers are most undesirable and it should be stopped." In another letter dated 25th March 1952 by the Bombay Stevedores' Association to the Conciliation Officer (Central) it is further stated, "The crane drivers have started working deliberately slow. The tonnage handled per hook is far too less than before. On one or two occasions the Stevedores have tried to pay more speed money to the crane drivers and the output has increased considerably. This, therefore, leads us to believe that the crane drivers are working deliberately slow with a view to extract more speed money from the stevedores." Ex. C-25 contains a letter dated 15th September 1953 by the Bombay Dock Workers' Union to the Port Trust in which it is stated, "You will of course agree that the only section left out of the speed money now, namely, the B.P.T. shore workers also deserve sympathetic consideration in this matter. May I therefore request you to kindly persuade the Stevedores' Association to pay speed money to shore workers on the basis of the B.P.T. Cranemen settlement?" Needless to say the request was turned down by the Chairman of the Port Trust. Ex. C-62 contains correspondence between the Stevedores' Association and the Bombay Dock Workers' Union in which the Union requested the Association that speed money should be paid by stevedoring companies to all sections of stevedore workers and shore workers. The Association replied to the Bombay Dock Workers' Union that they could not agree to pay speed money to the stevedore workers and shore workers. To this the Union again replied pressing for payment of speed money to workers other than cranemen. From the evidence referred to in this paragraph it is seen that cranemen have been able to dictate terms because they are in a key position. Speed money has to be paid to cranemen without any reference to output and it is illegal

gratification. It is not a payment made by the employer (for, the Port Trust is the employer of the crane-men) but by the Stevedores to induce the crane-men to do their duty. Section 79 of the Port Trust Act lays down that persons employed under the Act are, for the purposes of section 161 to 171 of the Indian Penal Code and the Prevention of Corruption Act shall be deemed to be public servants within the meaning of section 21 of the Code. Shri Pinto has stated that the money is paid voluntarily. The ground given by him for stating so is, "I say that speed money is paid voluntarily because when cranes are ordered by the agents even before the arrival of the vessel, the money is paid to them." There is no substance in this, and it is clear that crane-men have been in a position to demand and receive this illegal gratification regularly, because they are in a key position and can cause much harm to the Stevedoring and shipping companies by seriously slowing down the work. The Unions have produced Ex. U-101 which is a letter from the Calcutta Port Trust Employees' Association in which it is stated, "Tip or bakshish is actually paid by the Stevedores to the crane drivers though it is officially considered as illegal." It is not stated in the letter what amount is paid; (it is said they are paid a few annas but there is no definite information on the point). An attempt was made in 1949 by the Chairman of the Bombay Port Trust to stop Stevedoring companies from paying speed money. Accordingly speed money was stopped for three months, but the Port Trust and the Stevedores had to yield and payments for the three months for which it was stopped had to be made retrospectively for that period. The formula evolved by the then Chief Labour Commissioner (Central) in respect of speed money (quoted in the Port Trust's letter above) had no meaning and left the door open fully to the continuance of payment of illegal gratification to the crane-men. There is no issue nor any demand in the statements of the Port Trust and the Stevedores' Association for the abolition of speed money, and all the parties have therefore suggested that no directions be given on the question of speed money. But it has been necessary to deal with this point at some length. If crane drivers continue to be on time rate and get speed money also there will be no incentive to them to put forth their best efforts, while the other sections of workers engaged in loading and unloading will be dependent for their earnings,—in fact will be at the mercy of crane drivers. When the piece work system was the subject of correspondence between the Port Trust and the Bombay Dock Workers' Union in 1948 the latter had written as follows;

"..... as the process of loading and unloading work in the Docks depends upon the co-operative efforts of five distinct and different sections of workers, the labourers in question who form only one of the sections employed in the process, cannot by their own efforts increase the output of their work. The loading and unloading work is done by co-operative efforts of the shed staff employed by the Agents, the shore labourers, the crane-men employed by the Engineering Department of the Bombay Port Trust and the winchmen and other labourers employed by the Stevedore firms. Every one of these sections is employed by a different agency. Agents staff and the Stevedore labourers are employed by outside agencies; they are not Bombay Port Trust workers. Crane-men are not employees of the Docks Department and are technically speaking not under the direct control of the Docks Manager who is mainly responsible for the loading and unloading work in the Docks. Under these circumstances it will positively be dangerous for the Shore labourers to work on a piece work rate system. The output of their work depends solely upon the willing co-operation of other sections of workers. None of the other workers are tied down to a piece work rate system and most of them are not even subject to the direct control of the Docks Manager. It is not impossible for any one or more of the other four sections of workers to resort to slow down tactics or otherwise refuse to offer their full co-operation to the Shore labourers in the process of the loading and unloading work. The shore labourers will be compelled to suffer, under such circumstances and theoretically as well as in actual practice the Docks Manager will not be in a position to help them. Therefore, as long as all the five sections of workers are not employed on piece work rate system by one department of the Bombay Port Trust, it will be well-nigh suicidal for the shore labourers alone to agree to work in accordance with the proposed system.

Fourthly, it is generally well known that Toliwallas were paying a portion of their earnings to the various sections of workers employed in the loading and unloading work. This payment was made in order to secure the co-operation of these sections without which the toli-walla labourers could not increase the output of their work. The shore

labourers fear that they will also be compelled to pay illegal gratification to the same section of workers if in the place of *toliwallas* they begin to work on a piece work rate system. The *toliwallas* could afford to dispense with a portion of their profits for these illegal and corrupt payments as they too in their turn were earning money by doubtful practices. The shore labourers, however, will perforce be required to part with a portion of their hard earned wages as they will have no other alternative in the matter."

In the course of the arguments Shri Phadke for the Transport and Dock Workers' Union went so far as to say that if a piece rate system was introduced and speed money is not paid by Stevedores to crane men, the other sections of the workers may have to pay something in lieu of speed money to the crane drivers. This apprehension was expressed though in a different way by the Bombay Dock Workers' Union in its letter quoted above. When all the facts are carefully considered the case for including crane drivers in the piece rate scheme is a strong one, and it would jeopardize the success of the scheme if crane men are not brought on the piece rate. There is nothing in the nature of a crane driver's work which makes piece rates inapplicable. It might here be mentioned that in London where 98 per cent. of the work of loading and unloading is done on the piece rate system, the crane driver forms part of the ship's gang and is paid at the piece rate (*vide* Ex. U-52). In the piece rate scheme proposed by the Port Trust the advantages which the crane men now have of being monthly rated workers is preserved by providing that (a) if no work is available on any day they will receive the full time rate (b) if they are absent without leave for a day only 1/30th of their wage will be deducted and not 1/26th as in the case of daily labourer, (c) the minimum fixed for them under the Minimum Wages Act which is a monthly guarantee plus a sum of Rs. 12-8-0 will be guaranteed, (d) they will be paid the time wage for the weekly off days and holidays.

86. It has been urged by the Bombay Port Trust Employees' Union that the crane men have not been properly paid and that they are wrongly classed as semi-skilled and that they should get the wages of skilled workers in other Engineering industries. To rebut the statement that they are skilled workers the Port Trust has relied on Ex. C-102 which is a report of the Fact Finding Committee on the question of classification of the Bombay Port Trust hydraulic crane drivers. This Report shows that the demand of the Union for reclassifying crane men as skilled workers was considered. The Committee inquired what was the classification of crane men in other countries. The Committee reported as follows:

"From the information collected by us from the various Ports it will be seen that Hydraulic Cranes are not generally used and the few of them which are still existing are being replaced by the electric and other Cranes. Though the Electric, Steam, Petrol or Diesel Oil Crane Drivers are found to be classified either as 'Skilled' or 'Semi-skilled', the Hydraulic Crane Drivers are found to be classified as 'Semi-skilled'. At certain Ports the Crane Drivers are not classified at all."

This Committee included Shri Shanti Patel, President of the Port Trust Employees' Union. It is stated in the letter accompanying the report by the Regional Labour Commissioner, who was Chairman of the Committee, that after the draft report was approved unanimously by the Committee, Shri Shanti Patel submitted a note as an addition to the Report at the time of signature. I agree with the main Report. It is not disputed that crane drivers are promoted from the ranks of *nowganis*. They have been rightly classified as semi-skilled. The present grades of crane drivers are as follows:

Crane Drivers heavy—Rs. 93—4—125—5—130.

Crane Drivers—Hydraulic 30 ton and over—Rs. 55—3—85—4—93—E.B.—4—125—5—130.

Crane Drivers—Hydraulic 5-6 tons—Rs. 60—2½—75—E.B.—3—90.

Crane Drivers—Hydraulic 35 cwt.—Rs. 50—2—60—E.B.—2—76.

They get dearness pay and other allowances on the following scale:

Basic	Dearness pay	Dearness allowance	Houserent allowance.	Compensatory allowance.
	Rs.	Rs.	Rs.	Rs. a. p.
Rs. 50	20	20	15	10 0 0
Rs. 51 to 55	25	25	15	10 0 0
Rs. 56 to 75	25	25	15	12 8 0
Rs. 76 to 100	25	25	20	12 8 0

87. It may be noted here that in Reference (IT-CG) No. 1 of 1952 regarding certain disputes between certain workmen (including crane men) and the Bombay Port Trust, the Adjudicator Shri S. H. Naik has pointed out that the present scales for crane men were fixed as a result of the intervention of the Chief Labour Commissioner (Centre) in 1948. The Chairman agreed to accept these two scales, (which were much higher than the scales then existing) on the distinct understanding that the new scales would be in final settlement of a claim for revised scales of pay and loss of overtime earnings which crane men would suffer on account of the introduction of the second shift from 1st January 1949. As a gesture of goodwill the scales were applied with retrospective effect from 1st January 1947.

88. It has been pointed out that a crane driver is compelled to maintain a strained position—lower extremities outstretched almost at right angles to the trunk, two hands on three levers on both the sides and eyes fixed to the cargo and men giving signals, for a fairly long time. But this has been taken into consideration in providing relieving crane drivers. But as crane men are being brought into the piece rate system the same considerations which apply to giving some increase in the wage in processing the piece rate apply. In processing the piece rate I have allowed for an increase of Rs. 12-8-0 per month. I would leave the existing grades alone; so that payment on time rate whenever necessary shall be on the basis of the existing rates and grades of pay with a special allowance of Rs. 12-8-0 per month with effect from the day on which the piece rate system comes into force. The method of calculating the piece rate in the case of crane drivers will be similar to the method in the case of shore workers *viz.* monthly wage divided by 30, divided by the datum line would be the rate per ton. The piece rates per ton rounded off to the nearest pie will come into force from the date on which this Award becomes enforceable and will be subject to the safeguards and provisions set out in Appendix E.

89. I might mention that in processing the piece rates for crane drivers I have not taken into consideration the fact that they are at present allowed to take regularly illegal gratification, euphemistically called speed money. If that were taken into account the crane men are overpaid. In the course of the arguments Shri Marr stated that if a piece rate system were introduced the Stevedores proposed to discontinue the payment of speed money; while Shri Kavlekar said that, come what may, crane drivers will not give up speed money. He, however, threw out a suggestion that, if necessary, the payment may be legalized by recovering the amount of speed money per shift from the Stevedore by adding the amount to the cramage charge recovered at present by the Port Trust and paying the amount to the crane driver. It was, however, pointed out by the Port Trust that cramage charge is recovered from the shipping companies and not the Stevedoring companies, and in any case the Port Trust was not willing to make any such arrangement to legalize illegal gratification or to give any such compensation to the crane drivers, in the event of the discontinuance of "speed money". I do not think it necessary to say more on the subject of speed money. I hope that with the increase in the wages of crane drivers given by this Award, and the opportunity they will have of earning premium the system of paying speed money to crane drivers will, in due course, be done away with.

90. I now come to the wages of drivers of heavy lift cranes, mobile cranes, forklifts, tractors and platform trucks. The Port Trust has not proposed piece rates for them and it is difficult to lay down any standards of measurement for their work. They will, therefore, remain on the monthly time rate. Their basic scales are as follows:—

Crane driver heavy lift (steam, oil and electric) 15 tons and over.	Rs. 93—4—125—5—130
Driver mechanic	Rs. 76—3—85—4—93—E.B.—4—125—5— 130.
Crane drivers Mobile : 1st grade (over 6 and below 15 tons).	Rs. 55—3—85—4—93—E.B.—4—125—5— 130
Crane drivers Mobile 2nd grade (Cranes upto 6 tons, Drivers of tractors and forklifts.)	Rs. 50—2½—60—3—90
Drivers of Platform trucks (electric cars)	Rs. 35—1—50—E.B.—2—60

91. The Bombay Port Trust Employees' Union has asked for large increases for these categories. In my opinion no revision of the grades is called for. The grades were fixed after taking into consideration the skill required of the posts, and the dearness allowance was increased from 1st July, 1951 and their wages are adequate. As they are not brought into the piece rate scheme, the considerations which have entered in the increasing the wage of the crane driver of cranes which load to and unload from vessels are not applicable. Moreover, any increase in their wages would unnecessarily disturb the differentials of workmen not included in this reference (e.g. lorry drivers, assistant chargemen, etc.) The Bombay Port Trust Employees' Union has asked for a large increase in the grade of platform truck drivers on the ground that their work requires special training and they have to go through a trade test. The Report of the Chief Engineer cited in Trustees' Resolution No. 614 of 1st October, 1952 shows that mazdoors and nawganis were given a week's training to do this work and after that they were put to a test and that the above grade was fixed because that grade prevailed in the Western Railway for drivers of such trucks who were regarded as semi-skilled. It is stated that these electric cars can be operated by the use of one lever. In my opinion the starting pay of the grade is too low and I direct that the grade should be Rs. 40-1-50-E.B.-2-60 with effect from the date on which this award becomes enforceable.

92. The next question is whether baroots and cart and waggon unloaders employed by the Port Trust and khalasis working in Stevedore gangs should also be on the piece rate. Baroots are engaged for stacking certain types of import cargo. It is in evidence that the work of baroots is not simultaneous with the work of unloading. It is pointed out in the written statement of the Port Trust that baroots are employed in groups of 4 or 8 and are not required to work in gangs, that the employment of mechanical aids for stacking has drastically altered the entire nature of their work. I accept the submission of the Port Trust that it is not feasible to apply the piece rate to baroots. They are adequately paid and I do not consider it necessary to give any increase. As regards cart and waggon unloaders, their work does not affect hook work, is intermittent and the volume of work available on any day is uncertain. It is not feasible to have a piece rate from them. But there is a case for increasing their time rate. The work of cart and waggon unloaders appears to require heavy manual work. It has been pointed out in the Port Trust's written statement at paragraph 78 that in a recent selection for 17 posts of cart and waggon unloaders, 234 existing morpias and baroots and 419 category A mazdoors refused to accept the posts and the posts were filled up from lower categories. I award an increase in the basic pay of 5 annas to the cart and waggon unloaders with effect from the date on which this Award becomes enforceable.

93. As regards Stevedore workers engaged on a monthly basis who are said to number about six hundred, their wages were fixed prior to July 1953 on the basis of 26 times the basic wage and dearness allowance payable to the daily rated pool labour. They must also be brought on piece rates calculated on the basis of their time wage. In the written statement of the Stevedores' Association it is stated in paragraph 77 that in July 1953 their remuneration was increased by a special allowance to bring their take-away wage to the level of the daily rated pool workers who were getting wages for about 45 shifts a month on the average and in some cases for as many as 70 shifts per month. Ex. 117 shows that according to the conditions of service prescribed by the Dock Labour Board monthly workers were not to be employed on a second shift so long as daily pool workers were available for that shift. They were also not to be employed on Sundays and holidays except under special circumstances. The monthly pool workers represented that the daily pool workers earned two to three times the wages of monthly workers on account of the number of shifts worked and they wanted to be put into the daily pool or given higher wages. The former course could not be adopted. So the wages of monthly workers were increased in July 1953 by Rs. 30 per month in the case of junior gang workers, Rs. 35 in the case of senior gang workers, winchmen, hatchforemen and khalasis, and Rs. 55 in the case of tindels. In view of these recent liberal increases there is no case for any further increase in their wages. I direct that they be paid piece rates according to the same scale and subject to the same conditions as those laid down by me for the daily Stevedore workers at Appendix D, but they will be also entitled to be credited with the differential between the wage which has entered into the calculations of piece rate (Rs. 4-6-0 per day) and their present wage calculated by dividing their monthly wages by 30. They will also get the time rate pay for weekly offs and holidays. These rates shall come into force from the date on which this Award becomes enforceable. As regards khalasis their duties comprise keeping ready of derricks and it is evident that their work cannot be

measured in terms of any standard of production. They should be on the time rate applicable to the hatchforemen by this Award.

94. Tally clerks:—To the first 9 issues in the reference there is the heading, "Shore workers, stevedore workers, crancemen and tally clerks." There is a specific item applicable to tally clerks only and it is No. 4, "Should Tally Clerks employed by stevedores and the Port Trust be brought under the scheme of wages recommended?" The Stevedores' Association has urged that issue 4 does not include the question of wages of the tally clerks, and only if they are to be brought under the new system, their wages are to be fixed. It is true that issue 4 does not cover the question of what should be the wages if they are to be on a time rate, but issue 2 covers that. As stated above there is a heading giving four classes of workmen—including tally clerks, to the first 9 issues, and this means that these issues have to be considered in relation to all these classes of workmen, if they are applicable. It is true that the issue with regard to wages of tally clerks under the Port Trust is included in Reference (IT-CG) No. 5 of 1955 and it overlaps one of the issues in the present Reference, but that does not mean that tally clerks engaged by Stevedores are not covered by the present Reference when issue 2 in this Reference clearly covers tally clerks. It is also unlikely that the Central Government wanted the question of wages of tally clerks under the Port Trust only to be considered and not the wages of tally clerks under the Stevedores. Besides if it was the intention that the question with regard to the wages of tally clerks should be considered only if they are to be brought under the piece rate system, the Central Government could have framed issue 4 separately under the heading "tally clerks". The overlapping of the issue with one of the issues in Reference (IT-CG) No. 5 is not of importance for there is another issue also *viz.* that of amenities which clearly overlaps and is common to both the references. For these reasons I am of the opinion that tally clerks are covered by issue 2 also and the demand in respect of increase of their wages comes within the terms of the reference.

95. The Port Trust has represented that the duties of tally clerks are confined to noting the distinguishing marks and numbers, the outward condition and the number of packages landed or shipped at the quay, and as their work cannot affect the rate of output of employees concerned in loading and unloading they should continue to be on the time rate. The Stevedores' Association has also represented that it is not practicable that tally clerks engaged by Stevedores should be paid at piece rates. The Unions have also not demanded piece rates for tally clerks. I hold that it is not practicable to bring tally clerks under the piece rate system.

96. The next question that has to be dealt with is whether the wage rates of tally clerks are fair and should be raised as demanded by the Unions. The question of fair wages of tally clerks under the Port Trust will be more conveniently dealt with in Reference (IT-CG) No. 5 along with the wages of other categories of clerks in the Port Trust which are also the subject of that reference. In this reference I shall confine myself to dealing with the demands on behalf of tally clerks engaged by Stevedore employers and contractors. In making the demands for increases in wages of tally clerks the Unions have relied on the case Bank Line (India) Ltd. and Their Workmen reported in 1952 II. L.L.J. p. 470 at p. 473, in which it is stated that the Master Stevedores' Association in Calcutta pays tally clerks Rs. 6-5-0 per day and Rs. 7-5-0 per night. It is not known, however for how many days in a month they get work. The demand made by the Transport and Dock Workers' Union is that tally clerks should be paid Rs. 8-4-0 per day. The Bombay Stevedores' and Dock Labourers' Union has further asked for an attendance allowance for tally clerks on days on which there is no work provided. The Transport and Dock Workers' Union has in its statement of claim asked for a monthly scale of Rs. 60—5—100—7½—160 for tally clerks engaged by Messrs. Kanji Jadhavji and Co., Dharsey Mulji, and the New Dholera Shipping and Trading Co. Ltd. The Stevedores' Association has stated:

"The work of tallying cargo discharged or loaded from or to a ship is the statutory function of the Bombay Port Trust. Having regard to the extent to which the Bombay Port Trust has to carry out such work, occasions have arisen when a Shipping Company was held liable for short landing of a particular piece of cargo and, to obviate this and to provide an independent tallying and for quicker information, some Shipping Cos. or stevedore employers have employed clerks to do the work of tallying."

The Association has further stated that so far as tally clerks who are engaged for the shift for the duration of the ship's discharge, their work is of a casual and intermittent nature. Such clerks are paid Rs. 4-0-0 per day (comprising Rs. 2-10-0 basic and Rs. 1-12-0 dearness allowance).

97. The Eastern Bunkerers Ltd. have produced an exhibit showing that the average employment for their daily tally clerks is 30 shifts a month. They are paid Rs. 4-6-0 per day and Rs. 5-11-0 for Sundays. Messrs. James Finlay & Co., shipping agents, who are not parties to this reference pay their daily tally clerks Rs. 5 per day. Messrs. A. B. Cursetjee & Sons Ltd., D. B. Cursetjee & sons, Hill, Son & Dinshaw, and R. Sharp and Son Ltd. pay their daily tally clerks at the same rate as Eastern Bunkerers Ltd. and the average employment per month is 27 shifts, 40 shifts, 27 shifts and 30 shifts respectively. Taking into consideration the fact that tally clerks working under Stevedores have no other privileges such as Sunday off, leave, Provident Fund, gratuity, etc., in my opinion the wages of tally clerks employed on daily basis should be increased to a consolidated wage of Rs. 5-4-0 per day on week days and Rs. 6 on Sundays and holidays; and I direct that Stevedoring companies engaging daily tally clerks shall pay them at this rate with effect from 1st January 1955. The arrears shall be paid within a month of this Award becoming enforceable.

98. Monthly tally clerks are employed by Messrs. Eastern Bunkerers Ltd., Kanji Jadhavji & Co. and New Dholera Shipping and Trading Co. Ltd. For the tally clerks of Eastern Bunkerers the existing scale is Rs. 75-5-125-7-140 and dearness allowance of Rs. 45 for basic pay of Rs. 49 to 100 and dearness allowance of Rs. 50 for basic pay of Rs. 101 to 150. At the time of hearing the Unions did not ask for any change in these rates. Messrs. Kanji Jadhavji & Co. have no scales for monthly tally clerks who number about 32 and their pay varies from Rs. 35 to 68 with dearness allowance of Rs. 65. These tally clerks have also to do work of clearance after discharge, sorting, receiving, export cargo in addition to tallying. It is desirable that there should be a graded scale. I fix their scale at Rs. 55-3-85 with effect from 1st January 1955. Dearness allowance will continue on the existing scale. Clerks drawing less than Rs. 55 will draw Rs. 55 with effect from 1st January 1955. Clerks drawing Rs. 55 or more will draw the same pay in the scale or stepped up to the nearest figure in the scale to their present pay. Payment of arrears shall be made within a month from the date on which this Award becomes enforceable.

99. The New Dholera Shipping and Trading Co. Ltd. has about 16 monthly tally clerks on a consolidated wage scale of Rs. 100-5-140-E.B.-5-215. The same scale applies to their office clerks. As there is no separate dearness allowance it is urged that the scale is too low. The demand of the Transport and Dock Workers' Union in the statement of claim is that they should be brought on the scale of Rs. 60-5-100-7½-160 with dearness allowance on the Millowners' scale. It has been urged by the Company that any direction with regard to tally clerks of this Company will have repercussions on the office staff of the Company. However the minimum of the scale is too low and I alter it to a consolidated wage scale (i.e. including dearness allowance) of Rs. 110-5-140-E.B.-5-215. This scale shall come into force from 1st January 1955. Tally clerks drawing less than Rs. 110 shall draw Rs. 110 from that date, and tally clerks drawing Rs. 110 or over on 1st January 1955 will draw the same pay in the new scale but will be given one increment if they have completed a year's service on that date. Payment of arrears shall be made within a month of the date on which this Award becomes enforceable.

100. Messrs. Dharsey Mulji & Co. have contended that they have no tally clerks, that they have about 8 clerks who do work connected with delivery of cargo, etc. These clerks have no tally work. Ex. 135 which is a letter by the Transport and Dock Workers' Union to Messrs. Dharsey Mulji & Co. supports the contention of the Company that they have no tally clerks but have clerks who do delivery work. There is no satisfactory evidence that the Company engages tally clerks. I therefore make no order in the reference against Messrs. Dharsey Mulji & Co. in the matter of the demand of the Transport and Dock Workers' Union for increasing the wages of the tally clerks of this firm.

101. I now come to the question of wages of shore workers engaged by contractors. The Transport and Dock Workers' Union has represented that these workmen do not get adequate wages and service conditions differ. The workmen have not the benefits of Provident Fund, gratuity, etc. They do not get paid holidays on Sundays and other public holidays. The workmen are exploited on the piece rate systems on which they are paid now. The Union has therefore demanded higher wages as per Appendix 13 and 14 to its statement of claim. The Bombay Stevedores and Dock Labourers' Union has also made a demand for fair wages for these workmen. Of the contractors Messrs. Kanji Jadhavji & Co. (who are also Stevedores) engage shore labour at certain berths at Princess Dock where preference is given to ships of the Scindia Steamship Co. Ltd. or B. S. N. Co. Ltd. They pay workmen at piece rates which, according to them, enable the workers to earn Rs. 141-8-0 to 146 per month. The firm relied on an agreement

with the Transport and Dock Workers' Union, dated 30th July 1953 fixing the wages and other conditions of service. This agreement has been terminated by the Union in the course of the proceeding and will not be in force on the expiry of two months from the date of the notice. The firm has not contended that the termination is not valid but it has represented that the terms of the agreement are recent and reasonable and the Tribunal should give an award in terms of this agreement. The Union while not disputing that workmen get Rs. 141-8-0 to 146 per month contended that this amount was earned by working in two shifts a day, and this was not seriously disputed by the firm. In the course of the hearing both the Union and the firm stated that if piece rates are sanctioned by this Tribunal for the Port Trust shore workers those rates may be made applicable to the daily shore workers of the firm. It was further stated that the firm had no objection to maintain gangs of the strength maintained by the Port Trust and that the working hours on week days and Sundays and holidays and overtime rates should also be the same as those of Port Trust shore workers. I direct that with effect from the date on which the piece rates for the corresponding category of shore labourers employed by the Port Trust comes into force the shore workers employed by Messrs. Kanji Jadhavji & Co. shall be paid at rates (including premium in respect of output in excess of datum line) sanctioned in this Award for corresponding categories of Port Trust shore workers. The Union has demanded that the company should have the same arrangements for Provident Fund and gratuity. The firm stated that it has no objection to start a Provident Fund with a contribution by the Company of 6½ per cent., but is not willing to have a gratuity scheme. I have no powers to give direction on that subject as it is not within the scope of the reference.

102. With regard to Mahinewalas (monthly workers) of Messrs. Kanji Jadhavji and Co., they are on a consolidated scale of Rs. 75—5—120 under the agreement dated 22nd December 1952, which has been terminated by the Union. The agreement also sets out that if normal trade conditions are prevailing they shall get 2 months' bonus and leave salary equal to a month's wages every year. The Transport and Dock Workers' Union has contended that they should be brought on the same scale as Stevedore monthly workers. In the course of the hearing it was argued on behalf of the firm that Mahinewalas do sundry labour and handle passengers' luggage. The agreement, dated 22nd December 1952, shows that they assist in Stevedoring, shifting, sorting and weighing cargo. The scale for mahinewalas is on the low side and very low compared with that of Stevedore monthly workers and will be out of alignment with the wages of daily workers of the firm prescribed by me. Considering the varied nature of their duties it is not feasible to have a piece rate for them. I direct that their scale (consolidated) should be Rs. 85—5—125 with effect from the date on which this Award becomes enforceable or 19th July 1955, when the agreement referred to above expires, whichever is later. The wages of the existing workers should be fixed at the stage in the new grade which is equal to the pay they may be drawing at the time when the new grade comes into operation with one increment for every 3 years' service, subject to a maximum of 2 increments. Those drawing less than Rs. 85 should be given Rs. 85 with effect from the date this Award comes into operation. The other conditions of service will be the same as those laid down in the Agreement referred to above. Considering that wages of these workers were settled by an Agreement as recent as 22nd December 1952 and some increments as well as higher starts were given by that Agreement, I have not considered it necessary to give retrospective effect to the new scale.

103. Messrs. Dharsey Mulji and Co. have an arrangement with Messrs. Mackinnon Mackenzie and Co. Ltd. to unload barges and to stack cargo discharged by their vessels from Persian Gulf and Africa, subject to the Port Trust allowing discharging at the bunders. The work is performed at Hay and Haji Bunders. The firm has submitted that there is no regularity in the arrival of barges, nor regularity in the volume of cargo landed. Workers are engaged through Mukadams. In the written statement it was contended that the workmen being engaged by Mukadams were not workmen of the firm. Ex. U-129 which is an agreement between the firm and the Union before the Conciliator shows that the Company has been treating the workmen engaged for doing its work as its own workmen. In my opinion this firm which does unloading of cargo on contract and employs labour for the purpose cannot disclaim its responsibility as an employer of labour on the ground that labourers are engaged through Mukadams. In the case of Mersey Docks & Labour Board v. Coggins and Griffith (Liverpool) Ltd. (1947 A.C.I) the House of Lords adhered to an earlier decision that in deciding who is the employer the determinative factor is as to which party had control over the workers as to how they would do their job from day to day. Lord Porter in the course of the judgment in the case observed, '..... Amongst the many tests suggested I think the most satisfactory by which to ascertain who is the employer at any particular time is to ask who is entitled to tell the employee

the way in which he is to do the work upon which he is engaged". This decision was cited with approval by the Supreme Court in the case of Shivanandan Sharma v. Punjab National Bank Ltd. (1955 Vol. VIII Factory Journal Reports p. 150). Judged by these tests there can be no doubt that Messrs. Dharsey Mulji and Co. (and also Messrs. Ebrahim Moosa Tadpatriwala who have also raised the same point) are the employers and not the Mukadams. Messrs. Dharsey Mulji and Co. have submitted that disputes between the firm and the workers were adjudicated by a consent Award on 10th June 1953 by which certain piece rates and conditions of service came into force. The Award has been terminated by the Transport and Dock Workers' Union in the course of this proceeding, but the firm has submitted that there has been no such change in circumstances as would warrant an increase in the wages as sanctioned by that Award. Shri Phadke submitted that if a piece rate system were brought into force for Port Trust shore workers, piece work should be on the same basis for the workmen engaged by contractors. In the course of the hearing it was stated on behalf of the firm that if piece rates are applied to shore labour engaged by the Bombay Port Trust, the firm would have no objection if the same rates are made applicable to the shore workers of the firm. I make the same directions for shore workers engaged by this firm as those made by me in the preceding paragraph for the daily shore workers of Messrs. Kanji Jadhavji and Co.

104. I now come to the shore workers employed by Messrs. Ebrahim Moosa Tadpatriwala. The firm has represented that the job it has to do for its principals, Messrs. Mackinnon Mackenzie and Co. is that of a petty contractor, that its work is intermittent, that it engages workmen through Mukadams and pays each workman Rs. 3 per shift. It has 70 gang workers on its muster roll. It is stated that on the average workers get 16 days' work in the month. The firm has stated that it cannot pay more for labour unless its principals pay them more, that if any great increase in wages is made, they will have to "close down the show". Neither the firm nor the Unions have asked for piece rates for the workmen of these contractors. There is no reason why Messrs. Ebrahim Moosa Tadpatriwala should not pay a proper wage to these shore workers. I direct that Messrs. Ebrahim Moosa Tadpatriwala shall pay to their shore workers Rs. 4 per day with effect from the date on which this Award becomes enforceable.

105. Palewalas, palcwalis and shivnars.—Messrs. Kanji Jadhavji & Co. engage Palewalas on a daily wage of Rs. 2-11-0 rising by annual increments of 3 annas to Rs. 4-0-0 and palcwalis on a monthly rate of Rs. 87 to 92. The Transport and Dock Workers' Union has asked for a consolidated wage of Rs. 4 for these categories. The work of palewalas, palcwalis and shivnars is light and bears no comparison to ordinary dock work. No increase is called for in the wages payable to monthly palcwalis, but the daily palewalas are underpaid. They get a bonus of one-sixth of their wages earned in a year but they have work for very few days in a month. It may be noted that on other days they do some other work. Palewalas engaged by Dharsey Moolji & Co. have been paid Rs. 2 per day and by some Stevedores Rs. 2-8-0 per day. The demand is that they should be paid Rs. 4 a day. I direct that Stevedoring companies and contractors who are parties to this reference shall pay palcwalas not less than Rs. 3 per day with effect from 1st January 1955. Shivnars are paid Rs. 2 to Rs. 2-8-0 per day. I direct that with effect from 1st January 1955 Stevedoring companies and contractors shall pay shivnars not less than Rs. 3 per day. It is seen from Ex. C-1 that in the conciliation proceedings there was no demand for increase in pay of these categories, and I do not consider it necessary to give any more retrospective effect than 1st January 1955. The arrears shall be paid within a month of this Award becoming enforceable. This order shall not affect palewalas engaged under Messrs. Kanji Jadhavji & Co., who are getting a higher wage than Rs. 3 per day.

106. Issue 3.—"What should be the working hours of the various shifts under the system recommended, regard being had to the necessity to ensure quick turn-round of ships?" The Transport and Dock Workers' Union has represented that the present working hours should continue. The Bombay Port Trust Employees' Union has asked that the present day shift working hours should be reduced. The Bombay Stevedore and Dock Labourers' Union has demanded that there should be six hour shifts and that workers should be rotated periodically.

107. At present the working hours for shore workers, Stevedore workers and crane drivers of cranes which load and unload cargo to and from ships, are: the first shift from 8 A.M. to 5 P.M. with a rest interval from 12 Noon to 1 P.M. the second shift from 5-30 P.M. to midnight with half an hour's interval from 8-30 P.M. to 9 P.M. the third shift from 12-30 A.M. to 7 A.M. with half an hour's recess from 3-30 A.M. to 4 A.M. The Port Trust has in its written statement proposed that there should be only two shifts with increased working hours.

It has represented that with a proper turn-out the third shift would be unnecessary, that the second shift should be from 3-30 P.M. to midnight with half an hour's recess and work from 12-30 A.M. to 3-30 A.M. treated as overtime. To the same effect are the proposals of the Dock Labour Board. The hours proposed for the first shift are 7 A.M. to 3-30 P.M. with half an hour's interval in the middle. During the hearing, however, it was not disputed that an increase in the working hours and a reduction of the lunch interval would be a retrograde step but some alterations in the hours of working were suggested. The suggestion was that the first shift should commence at 7 A.M. the second should commence immediately after the close of the first, and the third immediately after the close of the second. The Unions have, however, represented that some of the workers come from long distances and they are opposed to the first shift starting at 8 A.M. In view of this I would leave the starting time alone. As regards the suggestion for coterminous shifts we find in the minutes of the Port Working Committee held on 28th August 1952 at which a representative of the Bombay Dock Workers' Union was present, the following: "A suggestion put forward by Mr. Seth to do away with the breaks after each shift also met with general approval. In order that labourers should obtain the maximum working hours in a shift it was suggested that the 2nd shift should start immediately after the termination of the first shift and the 3rd shift should start immediately after the termination of the 2nd shift. This would eliminate the loss of time involved in the opening and closing of hatches." We find also it stated in the minutes of the meeting of the Port Working Committee held on 25th August 1950:

"Mr. Hill suggested that there should be no interval between shifts; he proposed, for example, that the second shift should work from 5 to 11.30 P.M. and the third shift from 11.30 P.M. to 6 A.M., on the following morning, so that there would be no unnecessary loss of time in slowing down and starting up again. The Chairman said he had already examined this possibility; the obstacle in the way of abolishing the interval between the two shifts had been due to the necessity for servicing Fork Lifts, Mobile Cranes etc. He was arranging for servicing to be effected on the spot. This appeared to be the only solution and if it worked, the abolition of the interval between the shifts could be achieved."

In my opinion it would be a good thing if breaks between the shifts are avoided, and it would also be more convenient for the second shift to end a little earlier than midnight so that second shift workers can reach earlier and utilize more time for refreshing sleep, while the third shift (if third shift is required) would begin at a more convenient hour viz. 11-30 P.M. instead of a 12-30 A.M. That the second shift should close earlier so as to enable second shift workers to get local transport is also the recommendation of the Assessor (the Chief Inspector of Factories) who was appointed to assist me to decide the issue about amenities. But the Unions have strenuously contended that it would be difficult to secure a change-over precisely at 5 P.M. that workers will lose in wages if the shifts are coterminous. Shri Seervai did not press for the alterations of the timings in view of the strong objections of the Unions. I therefore do not direct any change in the existing working hours of shore workers, stevedore workers and crane drivers. So far as drivers of mobile cranes, fork lifts and tractors are concerned, their hours of work have, along with the hours of work for other workmen in the Engineering Department have already been fixed by me by the Award in Reference (IT-CG) No. 3 of 1954, dated 3rd September 1954.

108. As stated above the Bombay Stevedores' and Dock Workers' Union have asked for a rotation of shifts. A number of crane-men of the third shift have filed a statement of claim dated 20th August 1954 asking for a rotation of shifts. In the arguments urged on behalf of the Port Trust Employees' Union rotation of shifts was opposed. The question of rotation of shifts is not within the scope of the reference and I therefore do not give any directions on the matter. I may however mention that I agree with the submission of the Port Trust and the Stevedores' Association that if a piece rate system is introduced and workers work properly the third shift will not be necessary, except in emergent circumstances such as where a ship is to sail early in the morning after a short halt and has to discharge cargo. It may not therefore be practicable to have rotation for the third shift. So far as Stevedore employees are concerned there is already a system of booking by rotation. So far as the Port Trust is concerned, the Chairman has under Rule 13 of the Rules and Regulations powers to rotate shifts and he can exercise these powers if he thinks fit. The third shift crane drivers not represented by the Unions have claimed an extra allowance for work in the third shift. I have fixed piece rates for crane drivers on the basis of an increase in the time rate and I see no good reason to concede the demand for extra allowance for work in the night, and it is rejected. They have also demanded that seniority

and juniority of service should be maintained and should be specified on the monthly wage slip. There is no reason to suppose that the Port Trust does not maintain a list of crane drivers according to seniority. Perhaps the demand relates to the question of seniority as between third shift crane drivers and the crane drivers of the first two shifts. The demand is not within the scope of this reference and is rejected.

109. Issue 6.—“What should be the basis for calculating provident fund contributions, gratuity, leave salary, etc. under the new system of wage payment recommended?” The Transport and Dock Workers' Union has demanded that Provident Fund contribution should be on the basis of total wages, and should be 8.1/3 per cent., that service under the *tolawalas* should count for gratuity, that leave salary should be the monthly total wage of the worker. The Bombay Port Trust Employees' Union has asked that Provident Fund should be calculated at the rate of 1/12th of the monthly earnings including all allowances, that they should be paid to an employee at the end of one year's service irrespective of the cause of termination of service, that gratuity should be at the rate of one month's time wages including allowances for every year of service, that leave salary should include all allowances plus average of the extra amount of earnings. Both the Unions have asked for all overtime to be paid at double rates, but on this point there is a specific issue, No. 7 and this demand is not covered by this issue. The Bombay Stevedores and Dock Labourers' Union has demanded, without prejudice to its opposition to the piece rate system, that Provident Fund contribution should be 10 per cent. of the earnings of workers, gratuity should be on the basis of maximum earnings in any month multiplied by the number of years of service and leave salary should be calculated on the basis of maximum earnings in any month. The Port Trust has submitted that under the piece rate wage system the basis for calculating contributions to the Provident Fund, gratuity, leave salary, etc. should continue to be the time scale rates of pay, if the piece rate wage per day consisting of basic wages and dearness allowance are fixed on the scale equated to datum lines, that under the terms of reference the only question for determination is how wages under a piece rate system have to be computed for the purposes of making contributions to the Provident Fund, leave salary, etc. and other questions relating to Provident Fund, gratuity, etc. are outside the scope of the reference. The Stevedores' Association has also submitted that this issue does not give unlimited scope for the Unions to demand that Provident Fund contributions, gratuity, leave salary, etc. should be increased; that the question for consideration is what portion of the piece rate which may be prescribed comprises basic wage and what proportion comprises dearness allowance and what amount should be considered as the average wages for the purposes of leave salary, and the demands of the Unions do not come within the scope of the reference. I agree with these submissions of the Port Trust and Stevedores' Association. The questions raised by the Unions are outside the scope of the reference. Any alterations made as suggested by the Unions would have repercussions on other employees of the Port Trust and it is difficult to believe that Government could have considered that the Provident Fund, gratuity and leave salary rules of only the employees covered by this reference should be reviewed by this Tribunal while those in respect of other employees should remain as they are. It is because the subject matter of the reference is the introduction of a new system of wages to secure increased production (the words used “new scheme of wage payment” in the issue are significant) that it was necessary for Government to refer to the Tribunal the question how Provident Fund contributions, gratuity and leave salary should be calculated. My direction therefore is that the basis for calculating Provident Fund, gratuity, leave salary, etc. should be the existing basis.

110. I however record my findings on the merits on the demands of the Unions regarding increases in contributions to Provident Fund, leave salary, etc. so that if the case goes in appeal and the Appellate Tribunal takes a different view on the point of jurisdiction it would not be necessary to remand the case. In my view a good case has not been made out for the alterations asked for by the Unions and, so far as the Port Trust is concerned, any such alterations would have to be considered for all sections of Port Trust workers and not only for the workmen concerned in this reference.

111. With regard to the demand that the period of service under *tolawalas* should be counted for purposes of gratuity, Shri Phadke on behalf of Transport and Dock Workers' Union did not seriously dispute that I have no jurisdiction to grant this demand, but stated that if I make a recommendation in this Award, the matter would, no doubt, be sympathetically considered by the Trustees. I have carefully considered the matter, but I regret I cannot see my way to make any such recommendation for the following reasons. In the first place no records of the number of years' service under *tolawalas* are available, and to attempt to

take evidence on this point would open the door to frauds. Secondly, I cannot see on what principle the Trustees of the Port should be asked to bear the expenditure of gratuity in respect of the period of service under the toliwalas. In the case of a business firm or company taking over a business, it is understandable that the firm or company taking over the business with its goodwill, assets and liabilities may fairly be required to pay gratuity in respect of the period of service under the previous employer. But in the case of the Port Trust the abolition of the toliwalas and the taking over by the Port Trust of direct employment of labourers, was done in pursuance of the demands of the workers backed by a strike. The workmen have benefited by getting stable employment and service conditions, and though the Government of India had pointed out that decasualisation by improving the quality of labour would ultimately benefit the employer no less than the dock worker, it has not been suggested that any benefit has accrued to the employer. It was pointed out by the Docks Manager in his report, dated 5th August 1948, the period immediately following the abolition of the toliwala system pointed to a definite retrogression in output. And the progressive fall in production per workman has been marked for the last three years.

112. *Issue 7.*—"For workers not covered by the Minimum Wages Act, in what circumstances and under what limitations should overtime be paid and at what rates?" The workers in this reference who are not covered by the Minimum Wages Act are stevedore workers. The Transport and Dock Workers' Union has made the following demands under this head for stevedore workers:—

- "(i) if workers are called upon to give attendance before 8 A.M. in the morning for the day shifts or 5-30 P.M. in the evening for the night shifts the period between the actual attendance time and 8 A.M. in the morning or 5-30 P.M. in the evening as the case may be should be treated as overtime and paid at the rate of double the total wages;
- (ii) work done in the recess period should be paid at overtime rate that is at double the total wage;
- (iii) work done between the shifts that is from 5 P.M. to 5-30 P.M., 12 midnight to 12-30 A.M. and 7 A.M. to 8 A.M. should be paid at overtime rate that is at double the total wage."

It is further demanded that workers should not be asked to work overtime in the recess period or during the shifts unless the ships are leaving immediately thereafter. The Bombay Port Trust Employees' Union has demanded that all work beyond 8 hours a day and 45 hours a week should be paid at double the rate of wages including all allowances. For work beyond 9 hours a day and 48 hours a week workmen should be paid double the rate of wages including all allowances. The Bombay Stevedores and Dock Labourers' Union has asked that overtime be paid to all who work beyond their normal hours of work at double the rate of pay including allowances. The demand that workers be paid overtime for attendance for booking before the starting time was rejected by Shri Naik, Industrial Tribunal in Reference (IT-CG) No. 7 of 1952. That being the case the demand is not sustainable. The Stevedores' Association has submitted that there should be no restriction that overtime should be worked only if the ship is leaving immediately. Overtime work will only be called for if the exigencies demand it. I direct that for workers not covered by the Minimum Wages Act overtime work may be given if the work required to be done is emergent or essential at the rates specified in Appendix D to this award in the case of piece workers and at the rate of one and a half times the basic wage and dearness allowance to time workers.

113. *Issue 8.*—"What should be the rate of payment for work on weekly rest days and closed holidays?" The Unions have demanded that for work on Sundays workers should be paid at the rate of twice the total rate of wages, and that the weekly rest day should be Sunday. The Port Trust has stated that the weekly rest day under the Minimum Wages Act is allowed to be staggered subject to conditions mentioned in the Rules made under the Act and if the weekly rest day for all workers is Sunday the port would have to be closed on Sunday. However, all the registered shore labourers are being given their weekly off on Sunday and the question of pay for work on these rest days does not arise. Casual labourers who work on Sundays are not entitled to weekly rest days since they work on those days of the week when work is available. They are at present paid Rs. 3-11-0 per day (including dearness allowance) for work on Sundays. No employee of the Port Trust is made to work on the day of his weekly rest and the question of payment for work on the weekly rest day does not arise. As regards work on closed holidays the Port Trust has submitted that for such work the employees should be paid at $1\frac{1}{2}$ times the basic rates. As regards Stevedore

workers the Dock Labour Board has prescribed payment at the rate of one and a half the basic wage and single dearness allowance for work done on **Sundays** and closed holidays. The Stevedores' Association has represented that **Sundays** cannot be the weekly rest day for all workers. The weekly rest day should be staggered so that the work of the docks can proceed satisfactorily and economically on all days of the week. As regards closed holidays the Association has stated that Stevedore labour is at present refusing to work on closed holidays. If the workers agree to work on closed holidays they may be paid at the piece rate plus half the basic wage. I decide that the demand that the weekly rest day for all the workers shall be Sunday is not within the scope of this reference, and if it is, it is rejected. Unless the port is to be closed down on Sunday, which would cause great inconvenience to the public and the business community, it would not be feasible to have a Sunday off for all workers. For work done on the weekly rest day payment shall be made in the case of piece workers, at the piece rate plus half the basic time rate, and in the case of time workers at one and a half the basic wage plus single dearness allowance. Work on closed holidays shall be paid at one and a half times the basic wage plus dearness allowance in the case of time workers, and at piece rate plus half the basic time wage in the case of piece workers. For rank casuals (other than A and B category) who get work on only a few days in the week, the considerations for giving extra wages for work on the weekly off day are not applicable and they may be continued to be paid for work on Sundays at the daily piece rate or time rate applicable, as the case may be. The direction in this paragraph will not be applicable to workmen whose case was decided by me in Reference (IT-CG) No. 3 of 1954 dated 29th December, 1954.

114. Before coming to the next issue I may mention that I am aware that Shri Naik, the learned Adjudicator had in Reference (IT-CG) No. 1 of 1952 interpreted the Decasualisation Scheme under which shore workers were entitled to one and a half the normal wages on Sundays and holidays as meaning that they should be entitled to one and a half times their total basic wage plus dearness allowance. It was stated during the hearing, on behalf of the Unions, that on account of this the Port Trust has not been giving Sunday work to A and B categories. The decision of Shri Naik interpreted the words of the Scheme and the merits of the question were not at issue and now that the Scheme has been modified by me by the introduction of the piece rate scheme, I am not precluded, by the existence of that Award, from giving directions about payment for Sunday work. Payment at one and a half piece-rates for work on Sundays would be excessive especially if a premium is earned and would also not harmonize with the service conditions for Sunday work for other Port Trust shore workers and stevedore workers. The directions that I have made in the preceding paragraph are therefore fair.

115. *Issue No. 9.*—"What essential amenities are lacking at the workplaces and should be provided?" This issue will be dealt with in Part II of the Award.

116. *Issue 10.—Stevedore workers.*—"Whether the present rates of payment of allowances (Batta) for stream work are adequate or should be revised?" The Transport and Dock Workers' Union has demanded that the rates which were fixed 6 years ago should be revised. When employed in stream work, workers have no facilities for taking meals or light refreshments. Ordinarily workers employed in the stream are required to carry their lunch with them or purchase it in hotels early in the morning. The present rates of batta are:

Tindels	Rs. 1-4-0 per shift.
Senior worker	} Re. 0-12-0 per shift
Junior worker	.	.	.	.	.
Hatchforeman	.	.	.	.	.
Winchman	.	.	.	.	.
Khalasi	.	.	.	.	.

The Stevedores' Association has opposed any increase in these rates. It has given in paragraph 155 of its written statement the present rates of batta paid by bigger and more prosperous concerns like Messrs. Alcock Ashdown and Co. Ltd., Mazagon Dock Co. Ltd., and Scindia Workshops Ltd. These rates are generally lower than those paid by the Stevedores now. No stream allowance is paid in the ports of Calcutta and Cochin. In Madras the stream allowance is 4 annas. I see no ground for directing an increase in the rates allowed at present. The demand is rejected.

117. *Issue 11.—Stevedore workers.*—"Whether the present rate of dearness allowance for stevedore workers is adequate or should be revised?" The Transport and Dock Workers' Union and the Bombay Stevedores and Dock Labourers'

Union have asked for an increase in dearness allowance. The question of what should be the proper dearness allowance raised is linked to the question of the total emoluments of labour which has already been dealt with under issues 1 and 2. The Stevedores' Association has in its written statement pointed out that in the case of junior pool workers the total emoluments for a 26 shift month amount to Rs. 100-12-0 of which dearness allowance comprises 45 per cent. In the case of the Bombay Textile mills the dearness allowance amount to 60 per cent. of the total wages. The Association has therefore represented that workers benefit in regard to Provident Fund and gratuity by reason of the higher proportion of the basic wage to the total emoluments. As stated above the question of the proper dearness allowance to be given to the Stevedore workers is linked to the question of total wages. I have fixed the piece rates on the basis of an adequate wage and dearness allowance. The cost of living index has recently been falling and there is no ground for making an increase in the dearness allowance. The demand is rejected.

118. *Issue 12.—Stevedore workers.*—"Whether the present minimum guaranteed 12 days' wages per month for stevedore workers are reasonable or should be changed?" The Transport and Dock Workers' Union has asked that the minimum guarantee be raised to 24 days. It is stated that the employers agreed before the Dock Workers Advisory Committee that the minimum guaranteed wage should be increased. This is, however, denied by the Stevedores' Association. The Association has stated that the question of raising the minimum guaranteed is academic as in no case since the guarantee was introduced by the Dock Workers Scheme has the guaranteed amount been required to be paid. It is admitted in the Rejoinder by the Transport and Dock Workers Union that workers have been getting on the average work for 45 shifts a month. Recently a Resolution has been passed by the Dock Labour Board that the shifts worked by a workman should not exceed 33 and arrangements are being made to recruit 70 more gangs. It is therefore likely that in future employment will not be for as many as 45 shifts a month. The Dock Labour Board has pointed out that a similar Scheme has been framed by the Central Government in exercise of its statutory powers under the Dock Workers (Regulation of Employment) Act for the ports of Calcutta and Madras, that any increase in the minimum guarantee of 12 days' wage may have adverse repercussions in Calcutta and Madras. In Calcutta where stevedore workers get about 12 days' work in a month and a sum of Rs. 4,80,000 has been provided in the budget for the payment of the guaranteed amount. The minimum guarantee is fixed by Government under its statutory powers by the Dock Workers (Regulation of Employment) Scheme 1951 and Government is not bound to give the same guarantee for all ports. As I have no jurisdiction I give no direction on the point but I recommend that Government may increase the minimum guarantee for Stevedore workers in the case of the port of Bombay to 20 days in a month.

119. *Issue 13.—Stevedore workers.*—"Whether the rate of attendance allowance for stevedore workers is reasonable or should be revised?" The Transport and Dock Workers' Union has demanded that the present attendance rate of Re. 1 per day payable to A category workers should be increased. Even this allowance money is not paid to workers booked in the third shift. Attendance money should be paid on the basis of 50 per cent. of the total wages according to the principles laid down in respect of lay-off in the Industrial Disputes (Amendment) Act, 1953. The Bombay Stevedores and Dock Labourers' Union has asked for double the present rate. The Stevedores' Association has submitted that the provisions of the Act in regard to lay-off do not apply to stevedore labour, and that the attendance rates at present paid are reasonable. Besides as they are prescribed by the Central Government by virtue of its statutory powers, by Rule 24 of the Dock Workers (Regulation of Employment) Scheme, this Tribunal has no jurisdiction to grant the demand. The attendance allowance is payable to a worker on the Reserve Pool Register who is available for work but for whom no work can be found. The Dock Labour Board has pointed out that a similar Rule is applicable to the ports of Calcutta and Madras, that in Bombay the Stevedore workers have been getting on the average 45 shifts a month, and therefore the demand for an attendance allowance if there is no work is of academic interest so far as Bombay port is concerned, but will have repercussions in the Calcutta port where the average employment is about 12 days in a month and where a large amount has had to be provided in the budget for attendance allowance. I hold that I have no jurisdiction to concede the demand for the reasons pointed out by the Stevedores' Association, and that even if I had jurisdiction the demand is not one which on the merits, should be conceded. The demand is rejected.

120. *Issue 14.—Stevedore workers.*—"What bonus, if any, should be paid to stevedore workers for 1953-54?" This dispute has been settled between the

Stevedores' Association and the workmen. The settlement is generally on the basis of 53 days' basic wages in a year. My award will be in terms of the agreement which is at Appendix F to this Award.

121. *Issues 15 and 16.—Shore workers.*—"15. Have proper steps been taken for the decasualisation of shore workers employed (a) by the Port Trust, and (b) by contractors, and if not, what further steps are necessary and possible?" "16. What attendance allowance and guaranteed wage should be paid to decasualised shore workers?" Under this head the Transport and Dock Workers' Union has demanded that the present decasualisation scheme differs from the Bombay Dock Workers (Regulation of Employment) Scheme, 1951 which is applicable to Stevedore workers and it should be scrapped. The scheme demanded by the Union is at page 92 of its statement of claim. In the alternative the Union has made the following demands for amending the existing Decasualisation Scheme:

- "(a) The number of 'A' category workers should be increased on the basis of average employment figures of 12 months immediately preceding the month of August, 1954.
- (b) The vacancies thus created in Category 'A' should be filled by workers of Category 'B' who should be promoted to Category 'A' for that purpose strictly on the basis of their service seniority.
- (c) The remaining vacancies in Category 'A' should be filled by workers of Category 'C' or so-called casual workers who should be promoted to Category 'A' for that purpose strictly on the basis of their service seniority.
- (d) The rest of the workers of Category 'C' or the so-called casual workers if any remaining outside Category 'A' should be promoted to Category 'B'.
- (e) All the three shifts should be integrated and all work in all the three shifts should be distributed to Category 'A' and Category 'B' workers only in strict rotation.
- (f) All work done on Sundays and Holidays should be distributed to Category 'A' and Category 'B' workers only.
- (g) The decasualisation scheme should be administered, managed and controlled by a Joint Committee consisting of three representatives of the Port Trust Administration and three representatives of Port Trust workers with an independent chairman acceptable to both the parties. The representatives of the workers should be elected by the workers by secret ballot from amongst a panel of candidates put up by the Union.
- (h) All new recruitments, adjustments of the registers and promotions should be done by a Joint Registration Committee appointed by the Joint Committee.
- (i) The Joint Committee should frame its own rules for the conduct of its business.
- (j) The representatives of the workers in the Committee once elected should be allowed to hold office for a period of three years.

122. Before dealing with these demands it is necessary to recapitulate certain facts. Before 1948 Port Trust labour was employed through *toliwalas*. In 1948 the *toliwala* system was abolished and the Port Trust engaged dock labour directly. The Decasualisation Scheme was introduced from 20th April, 1948, with the sanction of the Government of India. According to that scheme workers are comprised in two categories. Category A is designated as non-scheduled permanent and is entitled to:

- (1) wages per shift worked at certain specified rates.
- (2) attendance money at 12 annas per day when no work can be offered.
- (3) dearness allowance as allowable to other employees of the Port Trust.
- (4) cheap grain concessions.

The number of this category was fixed at 2300. In Appeal (Bombay) No. 184 of 1953 decided by the Labour Appellate Tribunal on 20th August 1954 the number was increased to 2557. Category B whose number was tentatively fixed by the scheme as 500 is designated as casual. Wages are fixed per shift and these workmen are entitled to:

- (1) attendance money at annas six per day.
- (2) dearness allowance at annas fourteen per day.
- (3) cheap grain concessions.

Both A and B categories get provident fund benefits and leave and holidays as allowed to other non-scheduled staff.

123. The scheme contemplated that work ordinarily arising in the Docks would be done by these categories. It was however found necessary to provide for "peak requirements" and "Shortages due to absenteeism". The need was met by casual labourers. These labourers are entered in a separate register and have no right beyond the claim for payment of work done. Employment is by rotation and depends on there being work and the workman being present when his turn comes. More generally they are engaged on Sundays.

124. The Port Trust has submitted that the question of decasualisation of shore workers was directly and substantially in issue in Reference (IT-CG) No. 1 of 1952. The extent of decasualisation necessary and practicable has been determined by the award of the Labour Appellate Tribunal dated 20th August, 1954 and the issue cannot be reopened at such a short interval. Moreover as long as that Award is in force this Tribunal has no jurisdiction to grant the demands made.

125. In Reference (IT-CG) No. 1 of 1952 before Shri S. H. Nalk, Industrial Tribunal, the issues *inter alia* were:

- (1) The number of workers in the A category should be raised to 2,800.
- (2) The number of workers in the B category should not exceed 500.
- (3) Recruitment to category A should be solely from category B.
- (4) Preferential claims of category A and B workers over purely casual labour for working the third shift.

The Tribunal gave an award against which both parties appealed to the Labour Appellate Tribunal [Appeals (Bom.) No. 183 of 1953 and Appeal (Bom.) No. 184 of 1953]. These appeals were decided on 20th August, 1954, i.e., after the date on which the present reference was made. In these appeals the Labour Appellate Tribunal allowed the demand of the workmen to the extent of allowing an increase in the A category to the extent of 2557. The employment figures of rank casuals were taken into account in fixing the strength of the A category. With regard to the demand for A and B category workers being given preferential claim over third shift work, the Appellate Tribunal observed that the demand in so far as it meant integration of all three shifts was contrary to the principles laid down in the decasualisation scheme, but it directed that preference be given to A and B workmen over C workmen if and when A and B workmen do not get employment in the 1st and 2nd shifts.

126. I shall first deal with the demand for scrapping the existing Decasualisation Scheme and framing the scheme asked for by the Transport and Dock Workers' Union. I am of the opinion, for the following reasons, that I have no jurisdiction to concede the demand. Section 4 of the Dock Workers (Regulation of Employment) Act, 1948, lays down, *inter alia*, that Government may make one or more schemes for a port and may amend, vary, or revoke such scheme. The power of framing such schemes is therefore with the Central Government. When such a scheme is framed an Advisory Committee may be appointed to advise upon such matters arising out of the scheme as Government may refer to it for advice. This Tribunal cannot frame any such scheme and thus, in effect, supersede the provisions of the Act, and while any such scheme framed by the Government can be amended or revoked if circumstances require it this Tribunal cannot make any such provision by an Award. The Dock Workers (Regulation of Employment) Act, 1948, is a balanced piece of legislation and makes provision for machinery for administering the Act and the scheme. It would not be in order to frame a scheme by an Award without the safeguards and machinery provided by the Act which the Legislature has in its wisdom provided and leave the rest to chance. For those reasons I hold that I have no jurisdiction to frame the scheme asked for by the Transport and Dock Workers' Union, but as the matter has been argued on the merits I record my finding on the merits also, so that if this case goes in appeal and the Appellate Tribunal were to take a different view it would not be necessary to remand the case. The Port Trust has submitted that in the case of stevedore work there are many employers and it was therefore desirable to have a system of registration of employers and regulation of the employment by them and the terms and conditions of service according to the provisions of the Dock Workers (Regulation of Employment) Scheme, 1951. But the Port Trust is one employer. It has to discharge statutory functions under the Port Trusts Act. The Joshi Committee Report excluded the Port Trust from the purview of the Dock Workers (Regulation of Employment) Scheme, 1951. It has been pointed out by the Port Trust in paragraph 105 of its written statement, "It would be anomalous if the

Port authority which is vested by statute with the duty and authority of administering the port were to be brought under the Dock Labour Board. On the contrary it is the Port Authority which should supervise and control the working of any Board constituted for registration and regulation of employment of labourers and the registration of the employers of such labourers." To these objections no effective answer has been given on behalf of the Unions. I also do not see how the Trustees can effectively exercise their functions under the Port Trusts Act if control in matters relating to labour is transferred to independent bodies, which would be the effect of bringing into force for the Port Trust shore workers a scheme similar to the Dock Workers (Regulation of Employment) Scheme, 1951. The Trustees would have to find means to pay labour, while the determination of wages, conditions of service, matters of discipline etc. would be transferred to other authorities. We have seen that the proposal of the Stevedores' Association to increase the labour force so as to get rid of an arrangement by which stevedore workers habitually worked for 45 shifts or more a day was until very recently, opposed by the labour representatives on the Board. During the course of this proceeding the increase was agreed to by the labour representatives on the Dock Labour Board, either because it may have been realized that it is not in the interests of the workers to work so many shifts, or because it was realised that the continuance of the existing arrangement would prejudice the case for an increase in the wage of stevedore workers. The period following the introduction of the Dock Labour (Regulation of Employment) Scheme, 1951, has been one of progressive decline in output by stevedore labour. There has been increasing indiscipline. I have heard 140 appeals as Appeal Tribunal under the Scheme, and a number of applications under Section 33 of the Industrial Disputes Act in the course of this proceeding and am constrained to say that it would be difficult to find a parallel in any other industry or public body to the cases of indiscipline which have come up to me for decision. I give illustrations of the cases which came to me for decision and in which I confirmed the order of the Special Officer, Dock Labour Board, suspending the workmen concerned from one to three days. In Application (IT-CG) No. 90 of 1954 it was proved that the workmen of the gang were playing cards by turns at the dock, though they saw that the Chief Officer of the ship was watching them. The Headforeman shouted to them three times to work and not to play cards, but the gangmen went on playing cards by turns. In Appeal (Docks) 50 of 1954 a hatchforeman was found guilty for the fifth time of stopping work without any justification. He was suspended by the Special Officer for a day (suspension for a day, apart from the stigma does not mean much, when workmen have been working over 45 shifts in a month. It means compulsory and much needed rest for a day). In another case, Appeal (Docks) No. 28 of 1954, a gangman and a hatchforeman were repeatedly sleeping during the shift hour. The defence was a technical one that the charge sheet did not give the name of the steamer. In Appeals (Docks) Nos. 31, 32, 33, 34 and 36 of 1954 the gangmen demanded unreasonably that they would work at a particular hatch only and when the headforeman refused, one of the men deliberately dropped a chappal at him from above and the others severely beat him saying, "Let us finish him here", as a result of which the head-foreman had to receive outdoor treatment in a hospital for 10 days. They were suspended by the Special Officer for 3 days. In another case, Appeal (Docks) No. 35 of 1954, a gangman did not want the particular booking and refused it on the ground that he had urgent private work, but later returned and abused the Assistant Administrative Officer in filthy language for giving him that booking. In another case [Appeal (Docks) No. 1 of 1954] a workman came one hour late for work and when the tindel asked him why he came late, he abused the tindel and bit him on the chest. He was suspended by the Special Officer for 3 days. In Appeals (Docks) Nos. 4 and 11 of 1953 two stevedore tindels left a quarter of an hour before closing time leaving a coach which was being unloaded in a hanging and dangerous condition, with one side hooked to the shore crane. The coach was finally unloaded with the help of railway attendants and Port Trust men. In Appeal (Docks) No. 42 of 1953 a winchman was found repeatedly sleeping while he was supposed to be on duty; the headforeman twice woke him up; on the second occasion he abused the foreman, and then started 'go slow' tactics. The Special Officer suspended him for 2 days.

127. In my opinion having regard to the experience gained so far in the working of the Dock Labour (Regulation of Employment) Scheme, 1951, the introduction of a scheme for Port Trust shore workers along the lines of the Bombay Dock Workers (Regulation of Employment) Scheme, 1951, or the scheme set out on, page 92 of the statement of claim of the Transport and Dock Workers' Union, would apart from the increase in expenditure it would entail, in the circumstances prevailing at present, not be desirable. Therefore, assuming that I have jurisdiction to concede the demand of the Union, on the merits the demand should be rejected. The Transport and Dock Workers' Union has made a grievance, both

in the statement of claim and during the hearing about the large increase in the number of casual workmen employed by the Bombay Port Trust. But the specific demands made by the Transport and Dock Workers' Union for remedying this grievance cannot be granted for the reasons stated above. I may however mention that as a Committee has been appointed by the Central Government to inquire into the working of the decasualisation schemes in Bombay, Calcutta and Madras and to recommend any modifications in the existing schemes, the question raised by the Union will, no doubt, be considered by that Committee and I do not think it necessary to say anything further on the subject.

128. I now come to the alternative demands of the Transport and Dock Workers' Union. During the hearing it was conceded that demand (a) for increasing the category of A workers is not maintainable in view of the award of the Labour Appellate Tribunal referred to above. Demands (b) and (c) therefore do not arise. With regard to the demand for promoting all the purely casual workers to B category it has to be noted that the demand in Reference (IT-CG) No. 1 of 1952 by the Union was that the number of B category workers should not exceed 500; the reason underlying the demand being that more workmen should be put in the A category. The Adjudicator in his Award observed:

"While formulating the Decasualisation Scheme, the Port Trust tentatively fixed the number if 'B' category workers at 500 because the number of labourers of that category to be employed by it depends upon daily requirements of labour. The daily requirements of labourers of 'B' category depend upon the absenteeism of labourers of 'A' category. The Port Trust, however, contends that 'B' category must include not only a leave reserve but a percentage of Labour to meet unusual requirements and therefore no ceiling limit should be placed upon this category of workers. But unusual requirements of labour can be met from the rank casual labour force. I do not think, therefore, that it is necessary to provide for unusual requirements of labour in the 'B' category. I have stated above that the leave reserve on account of absenteeism should not be less than 12½ per cent. and not more than 20 per cent.—20 per cent. of 2,800 comes to 560. My direction on demand No. 2 will, therefore, be that the strength of 'B' category workers shall not exceed 560.

The Labour Appellate Tribunal in the Appeal from the decision of the Adjudicator decided as follows:

"Now according to the decasualisation scheme the daily requirement of labourers of 'B' category depends on absenteeism of labourers of 'A' category and it has been further stated in the scheme that the number of 500 is tentatively fixed for the present. It follows that a certain number was tentatively fixed and the strength depends upon the daily requirement of the labourers due to absenteeism of workmen of 'A' category whose number cannot be anticipated and as such any ceiling put on the number would not be proper. Judged in this perspective we think that the number of labourers in the 'B' category could have been increased also but the difficulty is that the investigation of the number of labourers to be registered in category 'B' has not been referred to the Adjudicator. The issue precisely is the 'number of workers in the 'B' category should not exceed 500'. This was the number fixed in the scheme as said above. And as it is nobody's case that this number should be increased we see no reason to interfere with the scheme by increasing the number of 'B' category."

In the course of the hearing it was stated on behalf of the Port Trust that it had no objection if the number was increased to 560. I direct that the B category shall be increased to 560 within a month from the date on which this Award becomes enforceable.

129. Demand (e) is not pressed and is rejected. As regards demand (f), the facts are that A and B category workers have been getting continuous employment and have not been on retention allowance from February 1953. Work on Sundays and holidays is given purely to casual workers whose number has mounted up. In my opinion it would not be fair if A and B categories, who are comparatively well off, should be given work on Sundays and holidays at the expense of purely casual workers as it would reduce the employment of purely casual labourers who form a large number and who are not getting employment for all week days. The demand is rejected.

130. Demands (g) to (j): The Port Trust has contended that these demands amount to asking for a share in the powers of management of the Port and cannot be the subject of an industrial dispute, that the Port Trust cannot delegate to any outside body any of its statutory functions in administering the affairs of the Port. It is not necessary to go into the question whether such a demand can be the subject matter of an industrial dispute. I hold that I have no jurisdiction to take away the statutory powers of the Trustees of the Port Trust and give them to a Joint Committee as proposed by the Transport and Dock Workers' Union; and even if I have jurisdiction to concede the demand, the demand deserves to be rejected on the merits for the same reasons as those given above for rejecting the demand for the framing of a Scheme along the lines of the Dock Workers (Regulation of Employment) Act, 1951.

131. As regards the demand for raising the attendance money and guaranteed wage paid to A and B category workers, the Port Trust has submitted that A category workers get a minimum of Rs. 62-8-0 in the month as guaranteed wage even if there is no work in the month; the attendance allowance is annas twelve per day plus dearness allowance of Rs. 1-9-0 (For Sundays the attendance allowance is 12 annas only, the dearness allowance having been fixed on the basis of 26 working days in a month). As regards B category workers they get attendance allowance of annas 6 per day. The Port Trust has pointed out that the demand for an increase in the attendance allowance of B category workers was rejected by the Adjudicator in Reference (IT-CG) No. 1 of 1952. That Award being still in force the matter cannot be re-agitated. As regards A category workers they have been regularly getting work from February 1953 and have not been on attendance allowance since then. The demand for an increase in the attendance allowance and guaranteed wage to A category workers is therefore of academic interest. No good case is made out for directing an increase in the attendance allowance and minimum guarantee of A category workers. The demand is rejected.

132. I now come to the question of the decasualisation of shore workers engaged by contractors and the demand for attendance allowance to be paid to them. The Transport and Dock Workers' Union has stated in the statement of claim that workmen employed by contractors have not been decasualised, they do not get benefits of Provident Fund, leave, etc. The Union has proposed that a decasualisation scheme on the lines of the Bombay Dock Workers (Regulation of Employment) Scheme, 1951 be framed. During the hearing the demand was however not pressed and it was stated that at least the following steps should be taken to decasualise the workmen:—(1) Registration of and issue of photo identity cards to all workers (2) employment shiftwise by strict rotation (3) attendance money of Rs. 2 per day (4) guaranteed wage equal to 20 days' wages per month (5) maximum number of shifts to be worked by one worker not to exceed 33 shifts a month. The Bombay Stevedores and Dock Labourers' Union has asked that shore workers engaged by contractors should be registered and give a minimum guarantee.

133. Messrs. Kanji Jadhavji & Co. have in their written statement stated that as the Government of India has recently appointed a Committee to enquire into the necessity and feasibility of decasualising other categories of labour and frame new schemes, I should not pass any orders on this subject. But the Committee has only advisory powers and if the demands are within the scope of this reference I am bound to exercise my jurisdiction and pass suitable orders. Messrs. Dharsey Mulji and Co. have submitted that they have an arrangement with Messrs. Mackinnon Mackenzie and Co. Ltd. to unload barges and stock cargo discharged by vessels from the Persian Gulf and Africa, that the work is performed at Hay and Haji Bunders. There is no regularity in the arrival of the barges. The work is of a casual nature and so the question of contribution to Provident Fund, gratuity, leave salary, etc. does not arise. Average work available does not go beyond 12 days in a month. So in the peculiar circumstances prevailing so far as this firm is concerned, no scheme of decasualisation should be introduced. Messrs. Ebrahim Moosa Tadpatriwala have submitted that workers are employed by them casually through Mukadams when required by their principals, Messrs. Mackinnon Mackenzie & Co. Ltd., the work is liable to be terminated without notice, that the work is intermittent, and on an average labourers are employed by them for about 16 days in a month.

134. It appears that the decasualisation by contractors so far exists only to the extent that each contractor has some men who come to him for work and are given work if there is any. Some minimum steps are clearly necessary to decasualise the shore workers engaged by contractors. Labourers who regularly offer themselves for work at the docks are entitled to secure as large a measure of regular employment as circumstances permit. The aim should be

to regulate the employment and ensure that distribution of work does not depend on the caprice of intermediaries. I direct that Messrs. Kanji Jadhavji and Co., Dharsey Mulji and Co., and Ebrahim Moosa Tadpatriwala shall, with effect from the date on which this Award becomes enforceable:—

- (1) keep a register of shore workers and give them photo identity cards;
- (2) employ them by rotation, and no worker shall be employed for more than 33 shifts in a month; and
- (3) give an attendance allowance of Rs. 1-4-0 per day on days on which no work can be provided (except in the case of palewalis, palewalis and shivnars in whose case the attendance allowance will be Re. 1-0-0).

135. Before concluding, I desire to express by appreciation of the helpful manner in which the case was conducted by the counsel Shriyuts H. M. Seervai, N. V. Phadke, S. S. Kavlekar and C. L. Dudhia, and the Solicitors Shri H. J. Marr and Shri S. D. Nariman and Shri Jaswantlal Matubhai, and Shri K. K. Mehta, Secretary, Bombay Dock Labour Board, who have all taken great pains and conducted the case with ability, and given co-operation at every stage of the day to day hearing of this case. I have also to express my appreciation of the able manner in which the officials of the Unions, Shri P. D'Mello, Dr. Shanti Patel and Shri H. N. Trivedi prepared the case for the workmen, and to thank them for the active co-operation they have also given at every stage of the proceeding.

(Sd.) M. R. MEHER.

(Sd.) K. R. WAZKAR,
Secretary,

Industrial Tribunal.

Bombay, 30th May 1955.

APPENDIX A

BEFORE SHRI M. MEHER, I.C.S. (RETD.), INDUSTRIAL TRIBUNAL,
BOMBAY

APPLICATION (IT-CG) No. 56 OF 1955

IN

REFERENCE (IT-CG) No. 4 OF 1954

The Bombay Dock Labour Board, Bombay—.....Applicant.

Versus

Shri Mohd. Hanif, BSA/G.154-T and 4 others—.....Opponents.

In the matter of an application under section 33 of the Industrial Disputes Act, 1947.

APPEARANCES: Shri H. M. Seervai instructed by Shri K. K. Mehta for the applicant.

Shri P. W. Khandekar with Shri P. D'Mello for the opponents.

ORDER

This is an application under section 33 of the Industrial Disputes Act, for permission to suspend the opponents for 3 days. The inquiry was made on a report of Messrs. Eastern Bunkers Ltd. dated 11th December 1954, which was to the effect that the gang in which the opponents were working on the night shift of 9th December 1954 on S. S. Jalamayur indulged in go-slow tactics. The headforeman repeatedly told them to work in the normal way but they did not do so from 5-30 P.M. to 7-35 P.M. The opponents gave a uniform written statement denying the charge.

2. The evidence recorded in the inquiry was as follows. The headforeman Shri Latif stated that from 5-30 P.M. to 7 P.M. every worker of the gang worked slow. When the sling was ready, the headforeman would not singal, and the workers would not prepare the sling but used to sit down and not work properly. The headforeman told them to work properly but they continued to work slow from 5-30 P.M. to 7 P.M. The discharge during the time was 6 tons, when according to his experience it should have been over 20 tons. He called the Inspector of the Special Officer because the work was very slow. The report of the Inspector was to the effect that when he went on receiving the complaint the work at the hatch was—comparatively slower and on seeing him the speed increased slightly. The tindel was chitchatting with other workers for about 15 minutes.

3. The circumstances out of which the go-slow arose are revealed in the correspondence produced in the case. On 9th December 1954, the General Manager of the Scindia Steam Navigation Co. Ltd., wrote to the Conciliation Officer (Central) that Shri Fernandez of the Transport and Dock Workers' Union had a telephone conversation with the General Manager on the question of applying the Scindia terms and conditions of service to the workers in the Prince's Dock represented by the Union and Shri Fernandez was not satisfied with the answer of the Company and stated that the Union would have to adopt a go-slow policy in the Prince's Dock. On 10th December the Bombay Stevedores' Association Ltd., wrote to the Transport and Dock Workers' Union referring to the complaint of go-slow by the Eastern Bunkers Ltd., and Messrs. Kanji Jadhavji & Co., from 1 P.M. of 9th December 1954. It was pointed out that the dispute with the Scindia Steam Navigation Co. Ltd., was regarding some dock clerks, and the stevedores were not at all concerned with it and there was no justification for the stevedore workers to go-slow. The opponents were supplied with copies of this correspondence and they simply said that they were "not aware of the correspondence".

4. Shri Khandekar, Secretary of the Transport and Dock Workers' Union, has raised some technical objections. He has urged that the charge sheet specified go-slow by the opponents which was not punishable under the Standing Orders. But the charge sheet specifies that it was proposed to punish the workers for contravention of Standing Order 26(24) which is, "Failing to comply with lawful orders or directions of employers". The opponents were fully aware of the allegations made against them by the Company and gave a full and detailed written statement in the course of which they stated that they had disobeyed directions of the employers. So they have not been prejudiced by the alleged defect in the charge sheet. Even in a trial under the Criminal Procedure Code irregularity or defect in a charge is not a sufficient ground for invalidating proceedings unless the accused has been prejudiced.

5. Then it is urged that the opponents have not contravened any of the provisions of the Scheme and so they cannot be punished and that the Scheme does not provide for framing of standing orders. There is no substance in this contention. Clause 29 of the Bombay Dock Workers (Regulation of Employment) Scheme, 1951, lays down that a registered worker shall carry out his duties in accordance with the directions of each registered employer. In this case the opponents, according to the evidence which I believe, failed to carry out the directions of the employer to do their work normally and not to go-slow. There was, therefore, clearly an infringement of the provisions of the Scheme for which the opponents were liable to be punished, according to the provisions of clause 36 of the Scheme. The objection as to the validity of the Standing Orders has equally no substance. The power to frame standing orders to regulate the conditions of employment is to be deduced from clause 7 of the Scheme and the standing orders are not only not in contravention of the Scheme but are designed to carry out the provisions of the Scheme.

6. Lastly it has been urged that the question whether the datum line for output has been properly fixed is one of the points argued in the main adjudication and any decision in this proceeding under section 33 may prejudice the main proceeding. There is no substance in this contention. The charge is substantiated against the opponents on proof that they deliberately went slow and disobeyed lawful directions not to do so. The determination of the fact that they went slow is not dependent on the accuracy or otherwise of the datum line. It has been proved by (1) the evidence that they were in fact deliberately working slowly by the head foreman and the Inspector of the Special Officer, (2) evidence of the head foreman that during the period the output of cases was 6 tons when according to his experience, it should have been 20 tons. After 7-35 P.M. the workers worked on a different type of cargo and the output was normal and (3) during the period from 5-30 to 7 P.M. the head foreman requested the opponents' gang not to go-slow but work normally, but they did not listen. The explanation of some of the opponents in the inquiry that the production was low because some of the cases were jammed was an afterthought and is not at all borne out by the evidence.

7. Permission to suspend the opponents for three days is given.

(Sd.) M. R. MEHER,

(Sd.) K. R. WAZKAR,
Secretary

Industrial Tribunal.

Bombay, 28th April 1955.

APPENDIX 'B'

Datum Lines

Serial No.	Lines	Datum Line for 8 hour shifts	Datum Line for 6 hour shifts
1	2	3	4
<i>Imports</i>			
1	U.S.A. & Canada (General Cargo)	51	39
2	U.S.A. & Canada with 50 per cent & over bag cargo . .	78	58
3	Dollar Line	45	33
4	Coasting vessels other than small coasting vessels . .	64	48
5	All vessels other than those specifically enumerated . .	51	39
6	Small coasting vessels including Preferential Berths . .	80	60
6A	Vessels carrying full cargo of iron and steel	80	60
7	U. K. (General Cargo)	46	34
8	U. K. vessels with 50 per cent & over bag cargo . .	64	48
9	Australia, China & Japan (Far East Ports)	64	48
10	Bales Cotton	89	67
10A	Bales waste, yarn, twist, textiles of all varieties . .	89	67
11	Mogul Line (Middle East, Red Sea & Egyptian Ports) .	89	67
11A	Persian Gulf Ports	89	67
12	Bag Cargo	103	77
12A	Grain, seeds, oil seeds, groundnuts, salt, sugar, chemicals, ores— in any packing exceeding 112 lbs. per unit.	103	77
13	Bulk Grain	98	74
13A	Bulk chemicals (Rock Phosphates, Sulphur etc.) . . .	94	70
13B	Oils, grease, lubricants, asphalt, bitumen, and chemicals— in barrels and casks.	107	80
13C	Cement, chemicals, ores—in bags, packets, straw, net or mat packing not exceeding 112 lbs. in weight.	71	53
<i>Exports.</i>			
14	U.S.A., Canada & Europe (General Cargo)	59	45
15	Mogul Line	54	40
15A	Middle East, Persian Gulf, Red Sea and Egyptian Ports .	54	40
16	Coasting vessels except small coasting vessels	48	36

Serial No.	Lines	Datum Line for 8 hour shifts	Datum Line for 6 hour shifts
1	2	3	4
<i>Export—contd.</i>			
17	Others not specifically enumerated	50	38
18	U. K. vessels	59	45
19	East and West Africa	39	29
20	Ores in bulk	86	64
21	Small coasting vessels including Preferential Berths	80	60
22	Dollar Line	45	33
22A	Far East Ports including Australia, China and Japan	67	50
22B	Bales waste, yarn, twist, textiles, jute, wool and cotton of all varieties.	70	52
22C	Cement, chemicals, ores—in bags packets, straw net or mat packing not exceeding 112 lbs. in weight.	71	53
22D	Grain, seeds, oil seeds, groundnuts, salt, sugar, chemicals, ores—in any packing exceeding 113 lbs per unit.	103	77

APPENDIX 'C'

The piece-rates sanctioned in the Award (paragraph 81) for Port Trust Shore Hook Gangs and Morplas will be subject to the following provisions and conditions:

1. Allowances will be paid at annas 8 per hour in the case of 8 hour shifts and at annas 10 and 8 pies in the case of 6 hour shifts, for periods that labour is rendered idle due to no fault of its own on account of any one of the following reasons:

- (1) Breakdown of cranes or winches, (2) shifting of quay cranes or rigging of ship's derricks, (3) cargo not ready for shipment, (4) late arrival of vessel at the berth, (5) completion of loading and unloading before the end of the shift, (6) actual rain-time during shift working hours and (7) any other reason beyond the control of workmen except slow work on the part of other workmen.

Idle time shall be calculated as follows, viz. any continuous stoppage of work of 15 minutes and under shall be ignored and any continuous stoppage in excess of 15 minutes and upto 30 minutes shall be counted as 30 minutes. If the said continuous stoppage continues in excess of 30 minutes the actual excess rounded off to the next quarter hour will be calculated as idle time. For example, if there is continuous stoppage for 35 minutes, the idle time will be calculated as 45 minutes.

2. When double shore gangs are utilised at a hatch, 1/4th of the wages of a gang, i.e. Rs. 13 will be added to the piece work earnings of each such gang.

3. When the output of a shore hook gang exceeds the respective Datum in any shift, the gang will be entitled to payment at double the relative piece-rate for every ton of cargo outturned in the excess of the Datum in that shift:

Provided that if work is done in excess of the shift hours on any day, the premium payable shall be calculated upon the respective datum increased in proportion to the total number of hours worked. In addition the overtime worked will be paid for at overtime rates under the Port Trust rules for overtime allowance or in accordance with the provisions of the Minimum Wages Act, whichever is applicable:

Provided that if work has been done for a certain number of hours and certain other hours are counted as idle time or are to be paid at the time rate (which should be rounded off to the nearest quarter of an hour) under the provisions of this Appendix then for the purpose of calculating the premium

the datum line will be proportionately reduced, e.g. if the datum is 80 tons for an 8 hour shift and only 6 hours are worked, 2 hours being idle time, then the Datum will be reduced to 60 tons.

4. The piece-rate has been processed on the basic wage of Rs. 2-7-0 plus dearness allowance at Rs. 1-9-0. The difference between this and the basic rate and dearness allowance applicable to the workman will be credited to his account by way of an allowance.

5. These piece-rates do not apply to work performed by the Dock Heavy Lift cranes. Shore workers working on these cranes will be paid at the time rate.

6. Rs. 1-8-0 basic wage plus Rs. 1-9-0 dearness allowance shall be the minimum guaranteed wage per day on which a workman is given employment. If the piece work earnings plus idle time payment and allowances on any such day fall short of the above minimum, the Port Trust will make up the difference for that day; provided further that if on any such day the output has been not less than 90% of the Datum, during the period or periods of work, and the piece rate earnings together with idle time payment, fall short of the time wage, the workman will be entitled to the time wage.

Rs. 1-14-0 basic wage plus Rs. 1-9-0 dearness allowance shall be the minimum guaranteed wage per day on which a Morpia is given employment. If the piece work earnings together with idle time payment and allowances on any such day fall short of the above minimum, the Port Trust will make up the difference for that day; provided that if on any such day the output has been not less than 90% of the Datum during the period or periods of work and the piece rate earnings together with idle time payment fall short of the time rate, the Moripa will be entitled to the time rate.

The above minimum rates will be exclusive of the differential in wages and allowances to be added to the earnings of the workers.

7. All vessels other than small coasting vessels with general cargo will have their datums calculated on a proportionate basis if the cargo consists of 50% or more of any of the commodities for which a specific datum has been provided under 'Imports' or 'Exports'. For example, if the datum for U.K. General Cargo is A tons and for drums oil is B tons in a shift of 8 hours and a ship brings 50% U.K. General cargo and 50% drums oil, a gang handling exclusively the general cargo will have a datum of B tons, and a gang handling general cargo for two hours and drums oil for 6 hours will have a datum of $A/4$ plus $3B/4$ tons.

8. If there is no tally clerk on a hook the wages of the gang working on that hook will be paid at the time rate for the time that there is no tally.

9. A gang handling scrap iron shall be paid on the time rate provided that if a gang handles scrap iron for a part or parts of the time in a shift and handles other cargo for the other part or parts, the datum line for the other cargo shall be proportionately reduced; in making these calculations the time will be rounded off to the nearest quarter of an hour.

10. The datum line for a gang handling manganese ore will be 80 tons for a shift of 8 hours and 60 tons for a shift of 6 hours. The Port Trust will supply 3 wagons in the 6 hours shift.

11. The earnings of each individual workman will be rounded off to the nearest quarter of an anna.

12. The earnings of each gang and the tonnage worked by it during a shift shall be communicated to the gang by handing over a card as early as possible to the morpia or leader of the gang whose duty it will be to communicate it to the gang.

13. In calculating the output the basis will be dead weight tons rounded off to the nearest ton.

APPENDIX D

The piece-rates sanctioned in the Award (paragraph 81) for Stevedore Gangs will be subject to the following provisions and conditions:

1. Allowances will be paid at anna 8 and 9 pies per hour in the case of 8 hour shifts and annas 11 and 8 pies in the case of 6 hour shifts, for the period

that labour is rendered idle due to no fault of its own on account of any one of the following reasons:

- (1) Breakdown of cranes or winches, (2) shifting of quay cranes or rigging of ship's derricks, (3) cargo not ready for shipment, (4) late arrival of vessel at the berth, (5) completion of loading and unloading before the end of the shift, (6) actual rain-time during shift working hours and (7) any other reason beyond the control of workmen except slow work on the part of other workmen.

Idle time shall be calculated as follows, viz. any continuous stoppage of work of 15 minutes and under shall be ignored and any continuous stoppage in excess of 15 minutes and upto 30 minutes shall be counted as 30 minutes. If the said continuous stoppage continues in excess of 30 minutes the actual excess rounded off to the next quarter hour will be calculated as idle time. For example, if there is continuous stoppage for 35 minutes, the idle time will be calculated as 45 minutes.

2. When cargo is discharged or loaded with two hooks working in the same hatch simultaneously, 1/4th of the time wages of the gang amounting to Rs. 8-12-0 will be added to the piece-rate earnings of each gang so utilised.

3. When the output of a gang exceeds the respective Datum in any shift, the gang will be entitled to payment at double the relative piece-rate for every ton of cargo out-turned in excess of the Datum in that shift.

Provided that if work is done in excess of the shift hours on any day, the premium payable shall be calculated upon the respective datum increased in proportion to the total number of hours worked. In addition the overtime worked will be paid for at one and a half times the basic rate and single dearness allowance.

Provided that if work has been done for a certain number of hours and certain other hours are counted as idle time or are to be paid at the time rate (which should be rounded off to the nearest quarter of an hour) under the provisions of this Appendix then for the purpose of calculating the premium the datum line will be proportionately reduced, e.g. if the datum is 80 tons for an 8 hour shift and only 6 hours are worked, 2 hours being idle time, then the datum will be reduced to 60 tons.

4. Overtime work in the case of time rated workers will be paid at overtime rates prescribed in paragraph 112 of this Award.

5. The piece rate has been processed on the basic wage of a junior worker of Rs. 2-10-0 plus dearness allowance Rs. 1-12-0. The difference between this and the basic rate and dearness allowance applicable to the workman will be credited to his account by way of an allowance.

6. These piece-rates will not apply to stevedore workers engaged in the discharge of heavy lift cargo with the assistance of B.P.T. heavy lift cranes, such as F. C. Sarus, Howra, Flamingo Lima and 110 tons shore crane at No. 10 Jetty End etc. or heavy lifts discharged with the help of ships' heavy lifts jumbo derricks. Stevedore workers working on these cranes will be paid at the time rate.

7. Rs. 1-10-0 (basic) plus Rs. 1-9-0 (dearness allowance) shall be the minimum guaranteed wage on which a workman is given employment. If the piece work earnings plus idle time payment and allowances earned by a workman on any such day fall short of the above minimum the employer will make up the difference for that day; provided further that if on any such day the output has been not less than 90 per cent. of the Datum, during the period or periods of work, and the piece rate earnings together with idle time payment, fall short of the time wage, the workman will be entitled to the time rate.

The above minimum rates will be exclusive of the differential in wages and allowances to be added to the earnings of the workers.

8. All vessels other than small coasting vessels with general cargo will have their datums calculated on a proportionate basis if the cargo consists of 50 per cent. or more of any of the commodities for which a specific datum has been provided under 'Imports' or 'Exports'. For example, if the datum for U.K. General Cargo is A tons and for drums oil is B tons in a shift of 8 hours and a ship brings 50 per cent. U.K. General cargo and 50 per cent. drums oil, a gang handling exclusively the general cargo will have a datum of B tons, and a gang handling general cargo for two hours and drums oil for 6 hours will have a datum of A/4 plus 3B/4 tons.

9. If there is no tally clerk on a hook the wages of the gang working on that hook will be paid at the time rate for the time that there is no tally.

10. A gang handling scrap iron shall be paid on the time rate provided that if a gang handles scrap iron for a part or parts of the time in a shift and handles other cargo for the other part or parts, the datum line for the other cargo shall be proportionately reduced; in making these calculations the time will be rounded off to the nearest quarter of an hour.

11. The datum line for a gang handling manganese ore will be 80 tons for a shift of 8 hours and 60 tons for a shift of 6 hours, including trimming.

12. Relievers Hatchforeman and/or winchman relievers will be paid piece rate on the basis of the average earnings of the corresponding regular workers working in that shift for whom they act as relievers.

13. Khalasis will be paid on the time rate basis.

14. Shifting of cargo will be paid on time rate basis.

15. Where extra gang workers are sent for helping all workers working in that hatch will be paid at the piece rate on the existing datum with an addition of 1/4th of the time rate wage, which will be credited to the piece rate earnings of those workers.

16. When workers are sent out in stream for loading or discharging cargoes, the time lost in transport to and from the vessel will be paid at the time rate, and for the work performed they will be paid on the piece rate calculated on the datum lines proportionate to the actual hours worked. The workers will also be entitled to stream allowance as follows:

Tindal	Rs. 1-4-0 per shift.
Senior worker	} Re. 0-12-0 per shift.
Junior worker	
Winchman	
Hatchforeman	
Khalasis	

17. The output of cargo discharged overside in dock or stream will be determined by the tally maintained by the shipping agents, and the piece rate calculated on the respective datum lines for shore work.

18. All ammunition and hazardous cargoes discharged into lighters will be paid at the time rate.

APPENDIX E

The piece-rates sanctioned in the Award (paragraph 88) for Crane Drivers will be subject to the following provisions and conditions:

(1) Allowances will be paid at annas 8 and 6 pies per hour in the case of 8 hour shifts and annas 11 and 4 pies in the case of 6 hours shifts for the period that the crane is rendered idle due to no fault of the crane driver on account of any one of the following reasons:

- (1) Breakdown of cranes or winches, (2) shifting of quay cranes or ripping of ship's derricks, (3) cargo not ready for shipment, (4) late arrival of vessel at the berth, (5) completion of loading and unloading before the end of the shift, (6) actual rain-time during shift working hours and (7) any other reason beyond the control of workmen except slow work on the part of other workmen.

Idle time shall be calculated as follows, viz. any continuous stoppage of work of 15 minutes and under shall be ignored and any continuous stoppage in excess of 15 minutes and upto 30 minutes shall be counted as 30 minutes. If the said continuous stoppage continues in excess of 30 minutes the actual excess rounded off to the next quarter hour will be calculated as idle time. For example, if there is continuous stoppage for 35 minutes, the idle time will be calculated as 45 minutes.

2. When double hooks are utilised at a hatch for discharging or loading cargo at shore, the amount of Rs. 1-1-0 representing 1/4th of the wage of the crane driver will be added to the piece work earnings of either crane driver operating at the hatch.

3. When the output of a crane driver exceeds the respective Datum in any shift, he will be entitled to payment at double the piece-rate in respect of every ton of cargo out-turned in excess of the Datum in that shift.

Provided that if work is done in excess of the shift hours on any day, the premium payable shall be calculated upon the respective datum increased in proportion to the total number of hours worked. In addition the overtime worked will be paid for at overtime rates under the Port Trust rules for overtime allowance or in accordance with the provisions of the Minimum Wages Act, whichever is applicable.

Provided that if work has been done for a certain number of hours and certain other hours are counted as idle time or are to be paid at the time rate (which should be rounded off to the nearest quarter of an hour) under the provisions of this Appendix then for the purpose of calculating the premium the datum line will be proportionately reduced, e.g. if the datum is 80 tons for an 8 hour shift and only 6 hours are worked, 2 hours being idle time, then the Datum will be reduced to 60 tons.

4. The piece-rate has been processed on the monthly wage as follows: Basic pay Rs. 50, dearness pay Rs. 20, dearness allowance Rs. 20, compensatory allowance Rs. 10, house-rent allowance Rs. 15, and special allowance Rs. 12-8-0. This is divided by 30 to calculate the daily wage. The difference between this wage and the basic rate and allowances applicable to the particular crane driver will be credited to his account by way of an allowance.

5. The minimum guaranteed wage for 35 cwt. Hydraulic crane driver will be Rs. 1-11-0 (basic) and Rs. 1-11-0 (dearness allowance). The minimum guaranteed wage of 5-6 ton Hydraulic crane driver will be Rs. 2-0-0 (basic) and Rs. 1-11-0 (dearness allowance). If the piece work rate plus the idle time payment earned by the crane driver on any day falls short of the above minimum, the Port Trust will make up the difference for that day; provided further that if on any such day the output has been not less than 90 per cent. of the Datum, during the period or periods of work, and the piece rate earnings together with idle time payment, fall short of the time wage, the crane driver will be entitled to the time rate (Rs. 4-4-0).

The above minimum rates will be exclusive of the differential in wages and allowances to be added to the earnings of the crane driver.

6. All vessels other than small coasting vessels with general cargo will have their datums calculated on a proportionate basis if the cargo consists of 50 per cent. or more of any of the commodities for which a specific datum has been provided under 'Imports' or 'Exports'. For example, if the datum for U.K. General Cargo is A tons and for drums oil is B tons in a shift of 8 hours and a ship brings 50 per cent. U.K. General cargo and 50 per cent. drums oil, a gang handling exclusively the general cargo will have a datum of B tons, and a gang handling general cargo for two hours and drums oil for 6 hours will have a datum of $A/4$ plus $3B/4$ tons.

7. If there is no tally clerk on a hook then the wages of the crane driver on that hook will be paid on the time rate for the time that there is no tally.

8. The driver of a crane handling scrap iron shall be paid on the time rate, provided that if a crane handles scrap iron for a part or parts of the time in a shift and handles other cargo for the other part or parts, the datum line for the other cargo shall be proportionately reduced; in calculating time rate, time shall be rounded off to the nearest quarter of an hour.

9. The datum line for a gang handling manganese ore shall be 80 tons for a shift of 8 hours and 60 tons for a shift of 6 hours. The Port Trust will supply 3 wagons in the 6 hour shift.

10. For weekly offs and other holidays crane drivers will be paid $1/30$ th of the time rate (Rs. 4-4-0 comprising Rs. 2-4-0 wage and allowances and dearness allowance Rs. 2-0-0).

11. For work done by cranemen on passenger ships, on ships under repair, in handling of Indian Mail Bags (incoming and outgoing, including bags parcel post) and in handling animal cargo shall be on time rate wages. If the time work occupies only a part or parts of a shift, and other cargo is handled during the other part or parts, the datum for such cargo shall be proportionately reduced.

12. The individual earnings of each workman should be rounded off to the nearest quarter anna.

13. The earnings of each crane driver and the tonnage worked by him during a shift shall be communicated to him as early as possible by the office of the Engineer, Hydraulic Establishment concerned.

14. In calculating the output, the basis will be dead weight tons rounded off to the nearest tons.

15. The relieving crane drivers will be paid at the time rate but they will be paid by way of premium an amount equal to the average of the premium earned (in respect of tonnage exceeding the datum line) by the drivers of cranes whom they have relieved during the shift.

APPENDIX F

BEFORE SHRI M. R. MEHER, INDUSTRIAL TRIBUNAL, BOMBAY

REFERENCE (IT-CG) No. 4 OF 1954

BETWEEN

The Bombay Port Trust and seventeen others

AND

The workmen employed under them.

Whereas the above Reference is pending before the Industrial Tribunal, Bombay, comprised of Shri M. R. Meher, I.C.S. (Retd.) and whereas one of the issues is: "What Bonus, if any, should be paid to stevedore workers for 1953/1954?" and whereas the parties have, without prejudice to their respective arguments in the matter, reached an amicable settlement on the said issue which settlement is not intended to operate as a precedent in the future, NOW this Memorandum of Settlement is arrived at in Bombay this 18th day of May 1955 between the Bombay Stevedores Association Ltd. representing the employer parties Nos. 3 to 19 inclusive (hereinafter referred to as "the Association") and the Transport and Dock Workers' Union and the Bombay Stevedores and Dock Labourers Union, representing the registered stevedore workers parties to the said Reference. The terms of settlement are as follows:—

1. The Association on behalf of the said employer parties agrees to pay as bonus subject to the conditions hereinafter set out for the year ended 31st March 1954 an amount equivalent to 53 days' existing basic daily wages to all registered monthly and pool workers employed by the employer parties and the pool during the said year.

2. A Registered Worker shall be entitled to the said bonus provided only that he has a minimum attendance of 156 days during the year commencing from the 1st April 1953 to the 31st March 1954.

3. Any registered worker having an attendance between 26 days and 156 days in the said year shall be paid this bonus on a *pro rata* basis. As an illustration any worker having 50 days, attendance will be paid bonus at the rate of $50 \times 53/156$ days. In making calculations for this purpose, fractions of less than half an anna shall be disregarded and fractions of half an anna and over shall be rounded off to the next anna.

4. A registered worker having attendance of less than 26 days in the said year shall not be entitled to any bonus.

5. For the purpose of calculating the quantum of bonus payable as above the daily wage of a registered monthly worker shall be arrived at by dividing by 26 his monthly basic wage existing as at 1st May 1953 and thereto shall be added 1/52nd part of the monthly increase in wage granted to him in July 1953.

6. It is hereby agreed that the registered workers partly employed on a daily rated basis under the pool and partly on a monthly rated basis under an employer-party during the said year shall be entitled to bonus from the Association and his entire attendance in both capacities will be taken into consideration for the purpose of calculation of the quantum of bonus due to him.

7. The Association agrees to pay the said bonus on or before the 30th June 1955. The Association further agrees that it will make all endeavours to pay to each worker entitled thereto an interim bonus by the 22nd May 1955 subject to adjustments in the case of underpayment or overpayment by the aforesaid date.

8. Any workman otherwise entitled to bonus who has left the service of the Bombay Dock Labour Board, or the employer parties shall be paid the said bonus only provided that he makes an application in writing for the same within six months from the date of this agreement.

9. The parties accordingly request that this Hon'ble Tribunal may be pleased to make an award on the said Issue No. 14 in terms of the above settlement.

For and on behalf of the Transport
and Dock Workers' Union.

(Sd.)

General Secretary.

For and on behalf of the Bombay
Stevedores' Association Limited.

(Sd.)

Chairman.

For and on behalf of the Bombay
Stevedores and Dock Labourers'
Union.

(Sd.)

General Secretary.

Before me.

(Sd.) M. R. MEHER,

Industrial Tribunal.

BOMBAY;

The 18th May, 1955.

[No. LR.3(44)/54.]

P. S. EASWARAN, Under Secy.

